A Review Essay

ETHICAL DISCOURSE IN AN AGE COGNISANT OF PERSPECTIVE. REFLECTIONS ON DERRIDA’S ‘THE LAWS OF REFLECTION: NELSON MANDELA, IN ADMIRATION’

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Synopsis

This essay explores the challenge of articulating ethical discourse in an age cognisant of perspective, intentionally, through Jacques Derrida’s admiration for Nelson Mandela in ‘The Laws of Reflection: Nelson Mandela, In Admiration.’ For Derrida, Mandela affirms an originary trace of human dignity, yet performatively reconceived through perspectival testimony and conscience, drawing from heterogeneous headings in Tribal lore and European law. Mandela exemplifies admiration for those legal traditions endorsing human rights and dignity, yet his testimony is a performance of ethical imagination invoking the spectre of ‘justice to come,’ which will always contest legal conventions and implicit circumscriptions of human dignity. Using additional works from Derrida, I propose that the challenge of articulating ethical values with traction, while affirming difference within an age cognisant of perspective, has exemplary focus in Derrida’s Mandela, with his spectral reflection of human dignity and difference. This ‘spectral reflection’ is a haunting silhouette of what is yet to come in the law, passing through Mandela as through a mirror – from invisibility to visibility and vice versa. In ‘The Laws of Reflection,’ Mandela is a metonym for an ethnicity of ethics (Derrida) that risks imaginative responsibility for an incalculable future, which, in the name of justice, calls into question any legal or ethical convention. This may have particular significance for articulating ethics in theological discourse.

Introduction

The tortured issue of ethical discourse in an age cognisant of perspective presents at least two critical foci. First, there is the challenge of articulating ethical values with grip or traction in a pluralistic society; and, second, there is the challenge of affirming difference within interpreter contingent perspectives of the current
hermeneutical milieu.¹ These foci can converge in the human body, as a site of discursive traction with difference and perspective contingent values. In its often inarticulate cry for dignity in the face of human ‘limit experiences,’² the body is an enduring site for sensitive dialogue and contingent consensus of values, whatever the perspectival differences stemming from culture, language, or belief system.

Embodiment is a site of feasible convergence for the ethical and perspectival. On the one hand, human difference is embodied, providing a site in human dignity for ethical traction on the proverbial ‘slippery slope’ of perspectivism. Human dignity is here defined negatively in terms of ‘limit experiences,’ confirmed by tracing and archiving the diminution of persons. The phenomenon of yearning for human dignity continually surfaces in the face of ‘limit experiences’ or the erasure of that dignity, for example, through patriarchal discourses and racism. On the other hand, the body is a site of difference, and therefore perspectival contingency, which is tangible in the phenomenon of diverse language–culture matrices, and therefore different life perspectives. Difference, however it is encountered, will always retain a reservoir of otherness, and therefore remains as that which is ‘always yet to come’ in our experience.³ This temporal possibility of otherness is a condition of tangible difference, while tangible difference gives some concrete specificity to our experience of otherness.

The challenge then, of articulating ethical values with traction or grip in a pluralistic society, while affirming difference in this perspectival cognisant age, encompasses, in addition to human dignity at limit experience, at least two critical factors drawn from Jacques Derrida: the perjury of ethical inscription; and justice as interruption in the aporia or impasse of adjudication.⁴ First, ethical inscription, whether conventional or legal, is injured in its necessary reiteration (iterability), therefore always potentially tearing itself.⁵ Second, the performative declaration of any substantive condition of rights or norms is ‘mystical,’ unable to adjudicate its rightness, presenting an impasse between singular expressions of justice and substantive conventions, in which the singular claim will always question the mystical legitimacy of either ethics or law as iterable conventions.⁶

Derrida questions our capacity to calculate ethics, the desire for justice continually calling into question the calculations of either ethical convention, or its most formal dimension in law. Derrida cites an aporia or impasse between law (as a re-iterable register or mark of human relations) and justice, in which the former is without adjudication in its inauguration as to its justice; the latter, justice, is always bringing the invisible, mystical foundation of law into question.⁷ Such interrupting justice cannot be stabilised sufficiently to be always calculable. Instead, the possibility of justice exists in risks of decision in the face of undecidable choices, as open responsibility for the future.⁸ It is this undecidable ‘perhaps’ that makes justice possible.⁹ This possibility of interruption by justice is always particular in its singularity, because embodied, yet spectral in terms of definition: even if justice occurs, it is also always ‘yet to occur.’¹⁰
In other words, justice will always haunt human codes of behaviour, whether these codes are convention or law, interrupting calculable inscriptions in the name of human dignity pressed to its limit. Justice is without external adjudication, its traction occurring in perspectival testimony to human diminution, with its risk of, and responsibility for ethical inventiveness, yet, always cognisant of future spectral interruption.11 We cannot predict from what source that interruption of convention by justice will occur.

In this challenge of articulating ethical values with traction in interpreter contingent contexts, I will work from Derrida’s essay ‘The Laws of Reflection: Nelson Mandela, In Admiration,’12 which presents an exemplary embodiment of perspectival ethics. ‘The Laws of Reflection’ is an aperture into an ethic in which perspectival values, as conscience and testimony, are fused with ethical responsibility for human dignity, albeit human dignity that is performatively reconceived beyond the law, by Derrida’s Mandela.13 Mandela exemplifies a testimonial admiration for the traditions or inscriptions of law as democracy and equality – essentially ‘human dignity,’14 the traces of which have also been marked and remarked in theological discourses.15 Mandela also affirms embodiment in its difference, especially at the limit of human dignity, as a site of ethical traction and spectral interruption of the law.16 Derrida’s admiration for Mandela affirms the same,17 in what Derrida has referred to as an ‘ethicity of ethics.’18

In the face of a time ‘out of joint’ in its ethical realisation of the law, Derrida’s Mandela perceives a democracy or ethics of human dignity that is ‘yet to come.’19 He conceives of ‘the other’ out of its ethical trace in the law, in the face of legalised violence in apartheid.20 First, Mandela demonstrates an ethic that is profoundly perspectival in its reliance on conscience, and testimony to the trace of human dignity;21 second, he endorses difference as a means of ethical imagination; and third, he is responsible in risking an ethical future yet to be realised.22 Mandela reflects the spectral nature of law (as justice): he makes visible what is invisible in its universal relevance;23 yet he remains ‘fascinated’ by the ‘law of laws’ – beyond the visible, responding to this spectral law through the interiority of conscience informed by an inviolable respect for human dignity.24 In this, Mandela is in the tradition of Immanuel Kant.25

I will briefly outline three features of Derrida’s thought on ethics that underpin his reading of Mandela: (i) The ambiguity of Western humanism; (ii) The ‘specular paradoxes’ of ethical responsibility; (iii) Mandela’s performance of Derrida’s différence.

What Does Mandela Reflect?

Mandela admires the tradition of democratic law delineated in Magna Charta (sic), The Petition of Rights, The Bill of Rights, and parliamentary democracy. Yet, in his reading of Mandela, Derrida questions whether ‘the law of democ-
racy’ is ‘essentially a thing of the West.’ 26 Mandela’s admiration for the law is offset by reflecting, making visible a spectral haunting, in which the West, it seems, is at war with itself in its laws and institutions pertaining to human rights and dignity. 27 The tradition that promotes justice is also a source of injustices that Mandela contests. 28 Mandela is the spectral reflection ‘of a question’; 29 he is a spectre of justice that haunts European law, made and preserved for human dignity, yet inadvertently underpinning the presuppositions of apartheid in Eurocentric humanism. 30 This inability to deliver justice consistent with its laws, is an issue that goes beyond performance of the law. 31 Two important questions emerge: is the law (European) universal?; and, is humanism (white) an adequate resource with which to challenge apartheid? First, Mandela implicitly questions Eurocentric criteria for human equality, and whether this historical context of the law’s presentation is inseparable from its universality. Without acknowledging ‘otherness’ in European configurations of universality, Western opposition to apartheid will always be in conflict with its presuppositions about the universality of the law. 32 Second, Mandela mirrors European humanism’s implicit racism back to itself at the point of its best intentions to eliminate racism: ‘race as man’s end emerges. Race figures man’s end as limit and as goal. ’ 33 Derrida admires this spectral reflection, questioning European tradition as a privileged, unified (humanistic) site from which to contest apartheid. 34 Whatever the European rhetoric for the ‘universal human,’ Mandela mirrors back an aporia in this tradition, ‘[a]n internal contradiction which would not put up with either a radical otherness or a true dissymmetry. ’ 35 The ‘universal human’ meets its end in race as the circumscribing difference between humans and the distribution of power and resources, pace apartheid as an exemplary expression of a multiplicity of smaller manifestations of racism. 36 ‘[U]niversal man’ appears to be neutral, ‘to bear no racial marks, but when held up to Mandela’s mirror, his racial markings as white become visible. ’ 37 Only when race has been challenged, can we begin to speak of a ‘universality’ that is applicable to all: ‘[m]an’s whiteness meets its end as limit in Mandela’s blackness. ’ 38 Mandela effectively makes apartheid a ‘white man’s issue. ’ 39

Mandela reflects heterogeneous headings in his challenge to apartheid, which prevent a stable determination of human dignity and difference. 40 This reflection spectrally haunts attempts to overcome racism through a humanism that implicitly though racially, defines humanity. 41 Mandela admires the social mechanisms of European democracy for translating and disseminating the ‘categorical imperative’ as the ‘end of man,’ 42 but knows that its European circumscriptio is not an end in itself. 43 Indeed, in Derrida’s terms, he causes a certain ‘trembling’ from ‘outside,’ but already ‘within . . . marked in its own (propre) body,’ which cannot be dismissed. 44
The ‘Specular Paradoxes’ of Ethical Responsibility

Derrida, following Kant, avoids locating the epiphany of law (as justice) with specific manifestations, for justice is always ahead of us, and always yet to be imagined. We never overtake the demands of justice. We are always in deficit. In Mandela, however, Derrida names the law’s spectral epiphany as justice. What Mandela reflects is visible as a performative responsibility, and, an indeterminate risk — because the law as justice is always to be reinvented beyond prior calculation. The unique demands of justice necessitate the interpretation of law, or its reconception in the face of singular demand. Hence, every just decision is suspended over uncertainty, in a form of ‘hermeneutical circle,’ with a tension between conserving law and inventing justice. Indeed, interpretation is an intrinsic polemos or conflict within the law. The risk of decision in the face of interpretive undecidability can admit a bad judgment, and here we face an impasse, for ‘inecalucable justice requires us to calculate,’ the relationship between law and justice being caught in this aporia. Two reflections emerge. First, the inadequacy of a saturated, calculable reference point for human dignity, and therefore justice located in any one ethical tradition, however well established as ethical convention. The singular exception will always challenge the stability of established convention, generating conditions of undecidability. Second, the interruptive nature of justice haunts every temporal appearance of the law, which must be reinterpreted or reinvented in its deficit to justice. Both these points suggest Derrida’s assertion, that, ethical convention conceals the impasse confronting ethical responsibility, this being, that responsibility faces undecidable alternatives with uncertain outcomes in every unique decision; yet, any decision and therefore responsibility, is impossible without this condition of undecidability. Derrida’s Mandella makes visible the ‘specular paradoxes’ of ethical responsibility concealed by convention. He also embodies the possibility of deconstruction.

Mandela’s Performance of Derrida’s ‘Différance’

Derrida’s admiration coheres in Mandela’s performance of différance. Derrida’s ‘différance’ is a condition of possibility for temporal and spatial differences: ‘the movement of différance, as that which produces different things, that which differentiates, is the common root of all the oppositional concepts that mark our language.’ Différance is anterior to, and the possibility of empirical differences, and therefore human identity as a temporal subject in time, and spatially distinct from others. Identity, in the Cartesian tradition of self-presence, is haunted by these temporal and spatial differences. In other words, our identity being temporal is dispersed over time through memory and anticipation; and being differentiated from others, is dispersed among, and interwoven with others.
Identity can never be so completely gathered to be present to itself, except as a fiction. Mandela performs a trace of différence that is anterior to differences, in his recognition of temporality, and, acceptance of differences, both being necessary for human dignity. Human community is temporal, its values dispersed over time, and thereby requiring constant reinterpretation. Human community consists of diversity, its differences being intrinsic to every differentiated identity. This is in stark contrast to the apartheid rhetoric that difference should be separated because it is different.

Derrida therefore advances a particular kind of human dignity, which is contingent on differences that emerge from différence, the anterior condition of possibility for (human) differences. Mandela is a site in which the traces of différence become visible, even if borne invisibly in his conscience, and articulated perspective in testimony. Mandela reflects the possibility or chance of integral, embodied difference, contesting the diminution of difference pace a-partheid with its "privative prefix." In this, Mandela is in the prophetic tradition with its appeal to the inviolability of human persons, especially those spatially marginalised through the temporal solidification of social mores. The performance of différence also suggests the possibility of interruption par excellence through an otherness having theological dimensions in the radical other. The word ‘God’ is frequently used as the basis for grounding an uncontestable adjudication toward conformity in ethical opinion, along with the proscription of certain forms of behavior. The appellation ‘God,’ however, also suggests a radical delimitation of any form of moral circumscript of human worth. This is an effect of différence in language, opening ethical discourse to an interiority [conscience] that is responsible before the wholly other. Testimony and conscience then, can appeal to two decisive forms of otherness: through testimony to the temporality and differentiated otherness of human community; and through conscience, appeal to radical otherness (however that is specified, theologically or otherwise), contesting the limits of any form of moral or legal circumscript of human dignity.

Conclusions

What theological significance might Nelson Mandela have for ethical discourse in an age cognisant of perspective? In evaluating Derrida’s "Mandela," we can only open a possibility rather than a certain response. This is precisely the thrust of Derrida’s thinking of the nature of law or any iterable ethical convention, haunted as it is by its deficit to the spectre of future justice. Mandela opens this possibility through his ‘reflection on the law’; his conscientious ‘reflection of the law’; and his exemplarity in giving himself to the testimony of a spectral return of justice to the law. Mandela bears testimony to the law as justice; inter-
prets an inheritance within which he laments the loss of justice; and in appealing to the acceptance of temporal difference in law, and contemporary difference in society, embodies an aperture for the possibility of justice. In this, Mandela is in the prophetic tradition.

Mandela’s embodiment is a site of convergence for articulating these ethical values and perspectival positions. On the one hand, Mandela’s defence of human rights confirms a certain *original trace of justice* in complementary traditions of responsibility for embodied difference. Ethical and political traction can be gained through the prism of negatively defined ‘limit experiences,’ such as systemic racism, and the persistent trace of human rights and dignity in the face of their diminution. On the other hand, Mandela’s embodiment of difference is also a site of perspectival contingency. This difference is tangible, with the reality of human embodiment being contextual, expressed through specific language, culture, and therefore life perspectives. Difference is also intangible, inasmuch as it is constituted structurally by iterability and différance. Justice then, has no more tangible site than the reception of embodied difference, bearing iterable marks of human dignity in bodies that are also different, spectrally singular because iterable.

In his admiration for Mandela, Derrida creates an aperture for the possibility of holding different perspectival, projected or *fictive* values, while also affirming those historical and legally registered traces of consensus for human dignity. For Derrida, Mandela affirms a persistent trace of human dignity, yet performatively reconceived, testimony contingent, and perspectival, drawing from heterogeneous headings in Tribal lore and European law, the latter, he both affirms and critiques. Mandela therefore exemplifies admiration for the traditions and laws of democracy: of human rights, dignity, and equality – as just ethics, and, testimonial perspective. Yet, Mandela does not mirror a merely given ‘human dignity,’ but instead, also makes visible an intrinsic racial bias of European humanism, which is less stable than is assumed. Mandela reflects back to us the implicit assumption that ‘white Eurocentrism’ is the ‘end of the human’ in defining human dignity. Mandela therefore reflects heterogeneity in his challenge to *apartheid* through a testimonial reflection on equality, traced in the witness to human dignity from various traditions, and therefore open to, and interwoven with human difference. This reflection reflects Derrida’s différance that is anterior to temporal and spatial differences, thereby destabilising any attempt to secure a prescriptive concept of justice, or circumscribe our understanding of human dignity. Mandela reflects the heterogeneity of justice that comes as an interruption generated by difference – temporal difference in law and differentiated identity in society.

Mandela’s testimony to the body’s demand for just dignity in the face of its diminution, is a performative questioning of the mystical foundations of ethical and legal conventions, the calculable force of which, is destined to violate otherness, hence always precipitating a necessary justice to come. The temporal
iteration of ethical convention or law through representation or interpretation is cross-examined for its inevitable perjury in discourse and deed, this too, being a source of spectral justice. Testimony to such justice is therefore, testimony to a certain possibility, chance, or time of 'the other' — whose embodiment is a source of difference, and whose singular claim to justice comes as an interruption to the assumed stability of ethical convention or law.

In reiteration of two strands noted from the beginning, affirmation of *embodiment*, especially embodiment at the limits of human dignity, and, conscientious perspectival testimony, coexist in Mandela. Human dignity is a site of ethical traction or grip. However, according to Derrida, Mandela also perceives an ethical reality that is yet to come, performatively, out of this anterior trace in the face of the violent legalities of *apartheid*. Mandela’s approach to an *ethnicity of ethics* then, is *perspectival* in its reliance on testimony to the trace of human dignity in two different headings, European and Tribal; and it is responsible in his performative sacrificial risk of future ethics that are yet to be conceived.

Testimony and sacrificial responsibility, then, are central to Mandela’s *deontology of deontology* or *law of laws*, offering the possibility of articulating theological ethics with traction in ‘perspectival times.’ The traces of such perspectival ethics are marked in the textual surfaces of theological testimony. The iterability of this testimony implies inevitable discursive reconception in new contexts. On the one hand, testimony is a pervasive biblical motif that permeates prophetic appeal in particular, and is a consistent texture in the Gospels. The biblical witness to justice, with its characteristics of testimony and even martyrdom, is confessional or perspectival, persuading by appeal to conscience and ‘coming justice,’ not by reference to empirical adjudication. On the other hand, Mandela’s affirmation of human embodiment in the face of limit experiences, such as oppressive *apartheid*, is also pervasively present in biblical tradition, and permeates a certain prophetic, theological reflection on ethical responsibility for human persons, in their embodied differences.

In summary then, in an age cognisant of perspective, ethical traction or grip can be gained through testimony to human limit experience, and the conscientious risk of responsible, inventive justice. Such an ethical discourse might find public correlation with theological discourse in two distinct ways. First, by delineating the theological registers of human limit experiences and the prophetic contesting of these limits. This is an affirmation of human dignity as embodiment. Second, through testimony to the infinitely variegated apertures and traces of différance in the word ‘God,’ an appellation that suggests interruption *par excellence* through otherness as *radical other*, rather than adjudication toward conformity. This is an affirmation of perspective. Both affirmations, of embodiment and perspective, open the possibility of *intervention*, and, imaginative dialogical *invention*, as an ethical response to persons in their human dignity and perspectival differences.
Endnotes


5. *Iterability* is the possibility of repetition, however, the interval of repetition also admits the further possibility of something new. Iterability both conserves and allows the new to emerge. Jacques Derrida, ‘From Psyche: Invention of the Other,’ Trans. Catherine Porter, in *Jacques Derrida: Acts of Literature*, ed., Derek Attridge (New York & London: Routledge, 1992) 340. In ‘representation . . . [t]here is no longer a simple origin. For what is reflected is split in itself and not only as an addition to itself of its image. The reflection, the image, the double, splits what it doubles.’ Jacques Derrida, *Of Grammatology*, Trans. Gayatri Chakravorty Spivak (Baltimore & London: John Hopkins University Press, 1974/1976) 36. Justice is never presented in infinite purity, but rather, must perjure itself to be presented in the law: ‘Justice would begin with perjury . . . at least justice as law . . . justice demands law . . . Law (droit) would begin with such a perjury; it would betray ethical upright (droiture).’ Derrida, *Adieu*, 33. Derrida sees the necessity of iterability for there to be a coming of the other in justice.

6. According to Derrida, the foundation of nationhood is an illegal act of law, because it establishes the law in the absence of the law, ensuring a perpetual contest between foundational law and conscientious objection contesting this violent inauguration. Derrida explores this impasse in foundational law as a characteristic of the substantive declarations of law in general. The conserving violence is structurally present in all inaugurations of law. In each case, an illegal *force of law* occurs, precipitating conditions for its perpetual contest, which in turn is met with further conserving force. Justice, reflecting the integrity of difference, will always contest this violent condition of law. Institutional foundation of law, then, is a performative violence that cannot guarantee or justify its truth in any precursor, foundational source that could adjudicate its ‘rightness.’ The founding of law or convention is never a moment inscribed in the homogenous tissue of history,’ hence, the institu-
tion of this performative decision and legal fiction 'amounts to founding, inaugurating, justifying law (droit), making law... a coup de force,' in an 'interpretative violence that in itself is neither just or unjust and that no justice and no previous law with its founding anterior moment could guarantee or contradict or invalidate.' (p. 13) Second, the law is 'mystical' in its violent appropriation of legitimacy in which the performative moment becomes constitutive law, creating an aporia in the law that is always subject to new demands of justice. (pp. 16, 27) Justice extends the law beyond its foundational and calculable force, hence, law is subject to 'reinvention' without external adjudication for such revision: the law is always quasi-illegal. Jacques Derrida, 'Force of Law: The Mystical Foundation of Authority.' Trans. Mary Quaintance. Deconstruction and the Possibility of Justice. D. Cornell et al. eds (New York & London, 1992) 10–17, 20–27.


8. Justice comes after the law, but precedes it as the condition of its possibility, pace Levinas' 'the third.' Justice (the third) calls into question the justice of every epiphany of justice; it is the invisibility of law that calls every manifestation of the law into question (Derrida's 'ethnicity of ethics'). The third is the anterior possibility of justice between two seeking justice. Derrida, Adieu, 29–33, 143 n. 62.

9. Derrida, 'Force of Law,' 27. The undecidability of 'perhaps' is a necessary condition of possibility for an ethical decision to occur: these two, perhaps and decision are inextricable. A 'condition of possibility,' according to Derrida, is that 'what happens must be able to happen.' Jacques Derrida, Politics of Friendship, Trans. George Collins (London & New York: Verso, 1997) 67–68, 260. Perhaps is inadmissible in conventional perceptions of law, yet it is a condition of possibility for justice. Jacques Derrida, 'Demeure: Fiction and Testimony,' Trans. Elizabeth Rottenberg, in Maurice Blanchot and Jacques Derrida, The Instant of my Death & Demeure: Fiction and Testimony (Stanford: Stanford University Press, 2000) 54. The responsible decision must be without determination, yet without prior 'norm or 'rule,' such a decision has no structure of 'presentable determination' of responsibility. Derrida, Aporias, 17.


11. Derrida's inventiveness suggests unexpected innovation, surprise, illegality, and otherness. Invention introduces a 'gap' between established 'convention' and an inaugural event, the beginning of something that is unrecognisable. Invention comes as a 'surprise.' (p. 338) 'An invention always presupposes some illegality, the breaking of an implicit contract; it inserts a disorder into the peaceful ordering of things, it disregards the proprieties.' (p. 312) According to Derrida, 'juridical utterances' have the 'same structure' as invention in which the conditions for recognizing a constative state [of law] is established in a performative inauguration or invention [of law]. Derrida, 'Inventions,' 312, 324–327, 337–338.


15. Mandela’s ethical genealogy, especially ‘law of laws’ or ‘conscience’ (‘the law speaks by the voice of conscience’), stems from ‘the principles of interiority’ in Judeo-Christian tradition. Derrida, ‘Laws of Reflection,’ 29. However the Judeo-Christian concept of imago dei (pace Genesis 1:26) has been interpreted, and this is as diverse as the human interest in metaphysical, ontological, and existential concerns, the metaphor, imago dei, has been a primary catalyst toward prophetic, kerygmatic, liturgical, legislative, and wisdom registers of the importance of human dignity in theological discourse.

16. Mandela describes what I am referring to as ‘limit experience’: ‘[people] are not capable of doing nothing, of saying nothing, of not reacting to injustice, of not protesting against oppression’; ‘a struggle of the African people, inspired by their own suffering and their own experience. It is a struggle for the right to live’; ‘The lack of human dignity experienced by Africans’; ‘poverty and lack of human dignity, and we do not need [someone else] to teach us about these things.’ Mandela, ‘No Easy Walk,’ 156, 184, 187, 189. Mandela gives examples of dehumanisation [limit experience]. Nelson Mandela, ‘People are Destroyed’ (October, 1955), in The Struggle is My Life, 58–60. Apartheid is ‘daily suffering, oppression, poverty, violence, torture inflicted by a white minority (16 percent of the population, controlling 60 to 65 percent of the national revenue).’ Jacques Derrida, ‘Racism’s Last Word,’ Critical Inquiry 12 (Autumn 1985) 293.

17. ‘Derrida argues for the necessity of working with and from the Enlightenment values of liberal democracy [‘human rights, political liberties and responsibilities’ p. xlvi] , while at the same time recalling that these values are never enough to ensure respect for the other. Derrida thus seeks a redefinition of European identity that


19. Derrida’s democracy is always a ‘time out of joint,’ a spectral memory of a future promise never fully realised in the present, because always coming. Justice as that which is yet to come, as an incautious responsibility, is a spectre from the future that haunts every present. Derrida, Specters of Marx, 22–29, 64–65, 86–88, 167–169; Derrida, Adieu, 116–117. In ‘The Laws of Reflection,’ Derrida frequently refers to the future: the future prescribing from the future (‘the Charter of Freedom’ [ANC and other groups] addressing the present from its future); the future is ‘reflected in advance’ (in Mandela’s perceptions); those who ‘make visible ahead of time, what still remains invisible’ (African society); ‘a law that has not yet presented itself’ (Mandela reflects the law of laws); a future that was always ‘anterior’ to the present (Mandela being ‘the freest man in the world’); a future that is as yet ‘undecided’ (in Mandela’s own destiny and effect). Derrida, ‘Laws of Reflection,’ 21, 25, 38, 41. Derrida says that ‘it is necessary to appeal unconditionally to the future of another law and another force lying beyond the totality of this present.’ Derrida, ‘Racism’s Last Word,’ 298.

20. Apartheid is ‘the unique appellation for the ultimate racism,’ a ‘metonymy’ for violence in its diverse expressions, singular and therefore an ‘untranslatable idiom’

21. Conscience is inseparable from Mandela’s performative ethics as embodied solidarity with people pressed to the limits of human dignity under apartheid. ‘The conscience which sets Mandela against the law is not the private voice which addresses him as an isolated individual... The conscience which puts Mandela in conflict with the law is one he associates with ‘public morality’ [human equality and dignity].’ (pp. 109, 115, citing Mandela, The Struggle is my Life, 39, 138, 153, 159) Bernasconi also notes that the content of Mandela’s conscience is a certain ‘duty’ – a response to human dignity pushed to its limits. Robert Bernasconi, ‘Politics beyond Humanism: Mandela and the Struggle against Apartheid,’ in Working through Derrida, ed., G.B. Madison (Evanston: Northern University Press, 1993) 109, citing ‘Struggle,’ 151.

22. There is an opening, a promise whose future is undetermined, the possibility of which is contingent on being a possibility among possibilities, not a determined teleology; the latter would close off the future as open possibility. Derrida, Specters of Marx, 73–75. Derrida’s Mandela envisages such a future of possibility: Derrida extends this by stating that ‘[c]onscience is... promise.’ Derrida, ‘Laws of Reflection,’ 38.

23. According to Kant, the law is without figurative representation because no example, not even Christ, is equal to it in expression or motivation (except as ‘encouragement’); for imitation is inadequate. The moral law must remain uncontaminated by mimesis and iterability. Reason alone is sufficient to guide us in its demands, yet, reason cannot insure the certainty of its claims. Derrida comments: '[m]orality, decision, responsibility require that one act without rules, and hence without example; that one never imitates. Mime, ritual, identifying conformity have
no place in morality. And yet, the simple respect for the law, as (well as) for the other, this first duty, is it not to accept this iterability or this iterative identification which contaminates the pure singularity and untranslatability of the idiomatic secret?" (‘secret’ being the moral imperative). Derrida, ‘Passions,’ 140–141 n. 10.

24. Derrida, ‘Laws of Reflection,’ 23, 29, 33–34; passim. Kant’s moral law is the ‘true mystery’ (‘Geheimnis’), ‘at once domestic, intimate, and transcendent,’ but this does not amount to mystical oracles. The difference between the speculative revelation of mysteries and the moral law, is presentability. The moral law cannot be figured, yet, ‘in its very transcendence the moral voice is nearer, and thus more auto-affective, more autonomous.’ Jacques Derrida, ‘Of an Apocalyptic Tone Recently Adopted in Philosophy,’ Trans. John P. Leavey, Jr Semèlia 23 (1982) 73, 79. While Kant’s teleology of the good as respect for human dignity prevents a circumscription of the moral law by omitting examples, Derrida’s other who is always to come, prevents human dignity from being circumscribed by any teleology. The law of laws is informed by Mandela’s reflections on human dignity: first, some essential parameters for dignity are registered in the law; and second, a conscientious doubling of law against law in the name of justice amid the flux of human experience is always necessary. For Mandela, the law is only upheld in a certain reflective way, as, in conscience, the law of laws, it endorses human dignity.

25. Mandela is a man of ‘reason,’ ‘rationality,’ ‘reflection,’ who Derrida admires for his ‘thinking,’ ‘interrogation,’ ‘force of reflection,’ and ‘questioning’ as to the moral law: ‘[a]n unremitting analysis enlightens the rationality of his acts.’ Derrida, ‘Laws of Reflection,’ 13–15. In Kant’s ethics, duty is freely engaged toward an end autonomously willed vis-à-vis respect for human dignity, as an end in itself; this end is rationally determined. Immanuel Kant, The Metaphysics of Morals, Trans. Mary Gregor (Cambridge: Cambridge University Press, 1991) 198–199. Morality is not to be calculated on hypothetical, desirable outcomes such as personal reward or punishment, but rather, is based on reason that thinks the ‘universal applicability of a moral imperative, and respect for human dignity as an end in itself, not persons as a means to some other end’ (Kant’s categorical imperative). Respect for the categorical imperative requires one to think ‘as if’ an action were of universal consequence. Kant’s duty is derived from a reasoned respect for the law, not conformity to a heteronomous duty. Immanuel Kant, ‘Theory of Ethics’ (‘The Critique of Practical Reason’), Trans. T.K. Abbott, in Kant Selections, T.M. Greene, ed (New York et al.: Charles Scribner’s Sons, 1929) 279–283, 300–302, 308–309, 315–321, 331. Kant’s ‘respect’ is an inclination, which Kant subordinates to maxims, yet is the one motive integral to the categorical imperative as a universal maxim, because generated from reason. In this way Kant both divides and joins deontology and teleology in ethics. Paul Ricoeur, Oneself as Another, Trans. Kathleen Blamney (Chicago & London: The University of Chicago Press, 1992) 213–214, 203–218.


28. An inheritance is necessarily divided to be risked as an act of responsibility, and the conscientious act of responsibility is necessarily embodied as a decision in this movement of divisibility. Hence, European tradition can generate legalised racism, and, a responsible critique of this particular trajectory. Derrida speaks of ‘filtering,
sifting, criticising’ the ‘possibilities’ of an inheritance, inhabiting it ‘in a contradictory fashion.’ Derrida, _Specters of Marx_, 16, 21.


30. [T]he history of apartheid . . . would have been impossible, unthinkable without the European concept and the European history of the state’ (p. 165); ‘the problem of apartheid is [also] surely an American problem.’ Derrida, ‘But, beyond . . .,’ 170. _Apartheid_ is a European issue, and ‘would have had no chance outside a European ‘discourse’ on the concept of race . . . to a certain representation of nature, life, history, religion, and law.’ Derrida notes that ‘the stability of the Pretoria regime has been prerequisite to the political, economic, and strategic equilibrium of Europe. The survival of Western Europe depends on it.’ This ‘survival’ relates to ‘gold,’ ‘strategic ores,’ 75% of which is ‘divided between the USSR and South Africa,’ ‘exportation of arms and technological infrastructures – nuclear power plants,’ and ‘geopolitical solidarity.’ Derrida, ‘Racism’s Last Word,’ 293–297.


34. Derrida, ‘Laws of Reflection,’ 16–17. To ‘import’ the resources of Western humanism as the only resources to combat apartheid, would effectively endorse the white supremacy values of apartheid – that, to achieve their social aims, blacks must resort to white resources. While Derrida critiques humanism, he does not discount its value as a resource with which to contest apartheid. Bernasconi, ‘Politics beyond Humanism,’ 107, 117.


37. Armour, ‘Subverting Race,’ 149, 152. In the Western ‘ideal of democracy,’ ‘Europe (as origin)’ is given priority over ‘Africa (copy),’ however, Mandela subverts this. (p. 151)

38. Armour, ‘Subverting Race,’ 149.

39. Bernasconi, ‘Politics beyond Humanism,’ 107. Bernasconi notes Mandela’s argument that the focus on individualism among whites, results in endless divisions [apart-heid] of the universe into entities of ‘private’ interest. This is foreign to Africans, whose perspective of life as a unified ‘harmony,’ generates a quest for social unity. (pp. 110–111, citing Mandela, _The Struggle is My Life_, 12, 23–24, 27, 101). Armour suggests that apartheid is made possible by the European concept of ‘man’ being defined as ‘one who owns property.’ Armour, ‘Subverting Race,’ 153.

40. Mandela’s identity as a man of the law is doubled between European law and traditional tribal law, a ‘double heading,’ which is a source of Derrida’s admiration for the spectral law of laws in justice. Mandela admires justice that endorses the right
of difference to be respected and accorded human dignity. In this instance, Mandela is an exemplary possibility of justice and human dignity in his testimonial identity through difference that leads to the possibility of the other’s dignity. He makes visible what is conserved but not disclosed in an inheritance, even as there is legitimacy in turning this epiphany against those who would proscribe its imposibility. Derrida, ‘Laws of Reflection,’ 17; Derrida, The Other Heading, 11, 14–15.

41. Mandela cites a double inheritance of the law of laws in its witness to human rights, in tribal and European traditions. Derrida’s Mandela inherits in a certain way, as ‘one who conserves and reproduces.’ He knows the ‘logic’ of his European inheritance to use it against those who distort it while claiming to conserve it, exposing them and delineating dimensions of this inheritance that have remained uncharted. He makes visible an aporia at the centre of European legal tradition, which seeks a universal symmetry of equality before the law, but is unable to tolerate such difference as to effect this universality for radical difference. This inheritance then is inhabited by a principle of spectral difference. Derrida, ‘Laws of Reflection,’ 16–17, 24–25.

42. Kant’s categorical imperative: ‘Act upon a maxim that can also hold as a universal law.’ The second expression, the ‘practical imperative’ is: ‘So act as to treat humanity, whether in thine own person or in that of any other, in every case as an end withal, never as means only.’ Kant, Metaphysics of Morals, 51; Ethics, 309.

43. Kant thinks the ‘limits of man’ (sic) in order to conceive morality which must be thought outside anthropology, on universal reason alone. Having this capacity for reason alone, man is an end in himself – and therefore ‘a determined opening or the infinity of a telos.’ Derrida, ‘The Ends of Man,’ 121–122, n. 15; 123. Two forms of ‘end’ are present in Mandela’s awareness: *apartheid* – ‘the end justifies the means’ in exploitation of humans; and [Kantian] ‘human dignity as an end in itself’. Mandela, ‘People are Destroyed,’ 59; Kant, Ethics, 308–309.


45. Conformity to external law is *legality*, but an internal incentive to duty toward an end freely willed is *ethics*. Kant, Metaphysics of Morals, 45–47. While the invisibility of the law is made visible in examples, it is not authoritative as example. Imagination is an inadequate basis for authority. Morality is not deduced from the empirical, but rather, is derived from reason which is independent of the empirical and contingent (even Christ’s moral example is itself recognised by reference to the universal law). ‘Imagination finds no place at all in morality, and examples serve only for encouragement . . . they make visible . . . the true original which lies in reason.’ Kant, ‘Practical Reason,’ 285–288. According to Derrida, Kant’s attempt to eliminate the contamination of ‘pure duty’ to the moral law by excluding simulacra (‘in conformity with duty,’ and ‘secret motives’), also eliminates the possibility of ‘pure duty’ in the necessary ‘iterability’ or ‘recurrence’ of law and duty. Before either ‘pure duty’ or its simulacrum as conformity, is the ‘secret’ of ‘nonresponse,’ the democratic possibility of making any response – as responsibility. Derrida, Passions, 24–25, 142, n. 12.

46. While the law is assumed not to be subject to history and narrative (‘fiction and imagination’), nevertheless, *fiction and imagination* are inscribed in the law through the imperative to act ‘as if’ an action is just. Derrida, ‘Before the Law,’ 190. Kant’s ‘as if’ principle is to act ‘as if’ serving the kingdom of ends in which human dignity is respected as an end in itself. Kant, ‘Ethics,’ 318–321. Derrida cites Kant’s ‘becoming–true of illusion’ in which a ‘fiction’ (a ‘counterfeit’ disposition or virtue) is converted into a reality (genuine disposition or virtue) through credit or credibility attributed to this counterfeit currency as if it had real value. Indeed, not to
extend such credit (in the fiction of as if), is to betray humanity. Derrida, Politics of Friendship, 274-275, citing Immanuel Kant, Anthropology from a Pragmatic Point of View, Trans. Victor Lyle Dowdell (Carbondale and Edwardsville: Southern Illinois University Press, 1978) ch. 9, pp. 257-258. The law then, is necessarily reinterpreted or reinvented - which is a fiction contingent on projecting a just decision - this being an act of imagination. Indeed, Kant's 'as if' principle ('pure rational faith') is also played out in a fictive religious guarantee ('hypothesis') of the categorical imperative. The 'sumnum bonum' of morality is contingent on postulating the existence of God, who alone can guarantee immortality as the possibility of human perfectibility in the true coherence of happiness and virtue ('the kingdom of God'). Kant, 'Ethics,' 360-368. The categorical imperative is grounded in the 'idea of God,' not the existence of God. The Idea of God is not grounded in any empirical or metaphysical proof, only the categorical imperative. God is within as 'the morally practical self-legislative Reason.' 'Ethics,' 372-374, from Kant, Opus Postumum, Kant's private notes published by Erich Adickes, 1920.

47. The debt is not owed to anything or anyone, but rather, Derrida's spectral appearance of justice implies a 'trace' of its further outstanding appearance yet to occur. Derrida, Specters of Marx, xx.

48. For Kant, the moral law must be without narrative and history, and therefore without contingency. However, Mandela narrates a testimony, reflecting the historicity of law in contrast to the fiction of its non-contingent immutability. 'Before Kant's law,' one is summoned, as before a history that has no history: law is silent and eternal. Derrida, 'Before the Law,' 191-192, 194. Mandela reflects the historicity of the law; first, as the 'law of equality' in European democratic institutions which has been distorted by apartheid; and second, by reflecting the narrative 'seeds' of a possible future of the law. Mandela is a mirror to the law's historicity. Mandela summons the law, in a spectral trial within a trial, to account for its history before the tribunal of justice; for while Mandela is summoned before the law, he summons the law to justify itself before his conscience and testimony. Derrida, 'Laws of Reflection,' 26-29. Hence, one fiction, the immutability of law (pace Kant) harbours another fiction, its testimonial narrativity (pace Mandela). Conventionally, testimony excludes fiction, (p. 43) however, testimony has the 'texture of literature,' appealing to truth, 'without truth,' for testimony, like literature, is its truth. (p. 56) Testimony is interpretive, narrative, a performative simulacrum, thereby introducing fictive invention or poetics as an intrinsic characteristic of testimony. Derrida, Demeure, 56, 65, 72, 83, 92.

49. Derrida, 'Passions,' 16-17; Derrida's 'aporia of responsibility' is responsibility as irresponsibility because it is not contingent on calculation, and must always undergo the undecidable risk of decision: responsibility exceeds schematisation. Derrida, The Gift of Death, 24, 24-28, 60-61, 77. Cornell affirms Derrida's interpretation of law: 'undecidability in no way alleviates responsibility.' Drucilla Cornell, 'The Violence of the Masquerade: Law Dressed up as Justice,' in Working through Derrida, 93. Responsibility is 'irresponsibility,' but without experimentation or risk, is merely an 'applied technology.' Derrida, The Other Heading, 44-45.

50. In the refrain 'before the law' in 'The Laws of Reflection,' the paradox of Kafka's parable 'Before the Law' is reflected in Mandela's being 'before the law.' Kafka's parable, 'Before the Law,' depicts the inaccessibility of the unpresentable law (law is unspecified), which one, nevertheless must stand before. Yet, the law that can only be approached singularly, is ultimately unapproachable in its universal applicability, remaining unpresentable behind its innumerable doorways and prohibitive
doorkeepers. In the law, there is a tension between the singular and the universal—the singular 'which must come into contact with the general or universal essence of the law,' yet, 'without ever being able to do so.' Jacques Derrida, 'Before the Law.' Trans. Avital Ronell, Christine Roulston, in Acts of Literature, 187, 181–195.

51. Derrida, 'Force of Law,' 23, 36. 'Justice yet to come' cannot adjudicate on the means. (p. 50) Ricoeur equates the integrity of textual and 'legal interpretation,' suggesting that both are based on hypothetical judgments anterior to their 'validation,' but 'validation is not verification.' Paul Ricoeur, Interpretation Theory: Discourse and the Surplus of Meaning (Fort Worth: Texas Christian University Press, 1976) 78–79.

52. Derrida, 'Force of Law,' 39.

53. Derrida, 'Force of Law,' 28. Derrida posits three aporias in the relationship between law (droit) and justice. First, there is the impossibility of responsibility as a calculable rule of justice. Second, the experience of undecidability is necessary for any responsible decision. Third, there is the necessity of decision without a horizon of certainty that could insure justice is not a decision of madness. (pp. 24–26) These aporias then, suggest that we cannot guarantee the rightness of our decisions, or justify any particular end, because the end is not yet conceived. (pp. 16, 49–51).

54. Derrida, The Gift of Death, 84–85. Derrida's conditions of possibility for decision and responsibility are similar to Kant's 'radical evil' as a structural possibility of freedom. For Kant, radical evil is not an inherited predisposition like Augustine's hereditary 'original sin.' Rather, radical evil is an anterior condition of possibility in freedom. The freedom to do good, is already inhabited by the anterior possibility that an alternative can be chosen—not to do good. This is 'radical,' not because it is necessarily terrible evil, but because its phenomenological expression is a manifestation of the condition of good, hence structurally 'radical evil.' In this way, Kant frees us from thinking about the origins of evil, with inescapable implications of determinism, to thinking radical evil, as inescapable as it is, within the condition of possibility for human freedom and good. Paul Ricoeur, 'A Philosophical Hermeneutics of Religion: Kant,' in Figuring the Sacred: Religion, Narrative, and Imagination, Trans. David Pellauer (Minneapolis: Augsburg Fortress, 1995) 77–82, citing Immanuel Kant, Religion within the Limits of Reason Alone, Trans. Theodore M. Greene & Hoyt H. Hudson (New York: Harper & Brothers, 1960) 17–39.

55. Derrida, 'Laws of Reflection,' 14–15. Responsibility is the risk, even 'madness' of decision beyond either duty or mere calculation as a 'hypothetical imperative.' Jacques Derrida, 'A 'Madness' Must Watch Over Our Thinking,' Trans. Peggy Kamuf, in Points, 359–360, 362–363; Jacques Derrida, 'Eating Well,' 272–273. In the responsibility of decision, one is given over to the 'insanity' of what one doesn't know or can determine. Derrida, Politics of Friendship, 69. (Cp. The (secret) madness of decision without calculable assurances (pace Kierkegaard): 'the instant of decision is madness.' Derrida, The Gift of Death, 65, 77, 24.)

56. 'Ultimate foundation [of law] is . . . unfounded': this is politically fortunate, providing the occasion for interruption or 'deconstruction.' Hence, Derrida says, '[d]econstruction is justice.' If law is constructed, it can also be deconstructed. Law is always embedded in some context of implicit interests and ideology, and deconstruction opens the 'possibility of justice' beyond the determination of context. The practice of deconstruction is assuming responsibility for responsibility, for in regard to particular 'theoretical, practical, ethico-political decisions,' deconstruction 'raises the stakes' and 'calls for an increase in responsibility' by suspending 'an axiom's credibility,' or, opening the frontiers of responsibility that are without axioms. While an action might be legal, it is not necessarily just, hence law must be rein-
terpreted or reinvented in the singular demand of justice. Deconstruction exposes this gap between law and justice as the possibility of the impossible to come, a spectral opening to the incalculable singular demand of justice beyond circumscription by the law. 'Justice is an experience of the impossible.' Derrida, 'Force of Law,' 13–17, 20–21; Derrida, 'Eating Well,' 285–286. Deconstruction has its leverage in dissonance between law and justice. It is the promise of justice, for '[d]econstruction . . . is not neutral. It intervenes.' Derrida, Positions, 93. Deconstruction cannot itself be ethical, but rather, it opens the possibility of ethical intervention. It provides the opportunity for ethical responsibility.


58. Derrida, Positions, 9, 104 n.31. Differance ('participle of the verb differer') is 'active and passive'; defers by delay; differentiates as the possibility of entities (spacing); generates differences (empirical effects); is a 'name' of the 'unthought' - the 'unfolding of difference'; and is the structural possibility of presence; yet difference can only generate traces of something that is never present. Differences are distinguished as an effect of difference. (pp. 8–10)


60. Differentiated identity is a consequence of difference because difference makes possible temporal and spatial differentiation, but is not itself a unified presence. Difference 'refers to the (active and passive) movement that consists in deferring by means of delay, delegation, reprieve, referral, detour, postponement, reserving. In this sense, difference is not preceded by the originary and indivisible unity of a present possibility.' Derrida, Positions, 8.


62. From the mid 1950's, the ruling Nationalist Party's sanitising rhetoric moved from 'racial' to 'national' and cultural definitions of apartheid. Eventually, apartheid became 'separate development,' and 'multiracial' became 'multinational,' and in turn, the rhetoric of 'plural democracy,' 'self-governing territories,' and 'democratic federalism.' These shifts in rhetoric masked violent dislocation and resettlement along racial lines – the 'Bantustan policy' ('homelands') which was still blatant apartheid. McClintock & Nixon, 'No Names Apart,' 144–145. In their international rhetoric, the South African Government equated their Bantustan policy with European ethnic nationalities and statehood. Armour, 'Subverting Race,' 228, n.17.

63. Testimony always carries the 'possibility' of perjury, deception, fiction, yet this is the structure of its possibility. It cannot be categorically judged true or false; hence, its veracity remains a secret, even when public. Testimony is always in a state of undecidability as to its veracity. Derrida, Demeure, 27, 29–31, 49, 75, 92. This undecidability is a condition of possibility for any singular expression of witness, and as such, is inseparable from the tension between exemplary and exemplarity.

64. Michel Leiris, 'Apartheid,' Trans. Peggy Kamuf, in Derrida & Tili, For Nelson Mandela, 71. 'The word concentrates separation . . . and sets separation itself apart.' Derrida, 'Racism's Last Word,' 292.

65. Derrida speaks of the paradox of a 'secret truth of faith as absolute responsibility' to the 'wholly other' ('Tout autre est tout autre' – 'God'), a singular responsibility and secret held in a silence of 'fear and trembling' before the 'mysterium tremendum,' which is incommensurate with discourses of 'ethical generality.' The 'secret' of 'absolute duty' ['conscience'] as a 'relation' with the 'absolute other,' does not
emerge from a general sense of 'ethical duty,' but rather, may be (ethically) incomprehensible to others. Derrida, *The Gift of Death*, 53–81. While Bernasconi notes that Mandela’s conscience is not ‘the private voice which addresses him as an isolated individual,’ (Bernasconi, ‘Politics beyond Humanism,’ 109) this is not in conflict with Derrida’s assertion that the structure of responsibility must rest on the singular character of any decision.

66. Bernasconi asks whether ‘Derrida domesticates Mandela,’ refusing ‘to allow him to speak as an other, in spite of the fact that the reading of Mandela is introduced as a questioning of whether the West has sufficient resources within it to combat apartheid . . . should not, for all his admiration for Mandela, [Derrida] also find him threatening?’ Bernasconi, ‘Politics beyond Humanism,’ 115. Derrida’s account is not hagiographic. He ends ‘The Laws of Reflection’ by asking several questions about Mandela’s identity, convictions, and destiny, which he concedes must remain unanswered. ‘Who is he?’ ‘Who is Nelson Mandela?’ asks Derrida, in admiration that slides into astonishment. He warns that Nelson Mandela cannot be contained by our words and speculations, and that his effect, which should not be formulated hastily, is ‘visible and invisible, like a mirror, also hard, like the walls of a prison.’ For all our admiration, he remains hidden from our gaze. Derrida, ‘Laws of Reflection,’ 41–42.