

ARTICLE

## **Cared to Death**

### The Biopoliticised Time of Your Life

Michael Dillon, Lancaster University

Substantially devoted to contesting Giorgio Agamben's argument that there is an intimate intersection between biopower and sovereign power, Mika Ojakangas' paper serves as testimony yet again to the continuing prescience and productivity of Foucault's account of biopolitics. Ojakangas' argument with Agamben's betrayal of Foucault's biopower thesis also provides an opportunity to bring into play a wide variety of additional, fundamentally important and related, questions. These are as much a tribute to Agamben, however, as they are to Foucault, even if we agree with Ojakangas' insistence that Agamben's intersection of sovereign and biopower is profoundly inconsistent with Foucault's account of biopolitics. There is much more going on in Agamben, of course, than a revision of biopolitics, however much the horror of biopolitics is a provocation to his thought. There is a wholesale attempt in betraying Foucauldian biopolitics to rethink the political as such.<sup>1</sup>

I wish to highlight three of these broad questions. They are the related questions of the nomological, the biological and the theological. Taken together they triangulate a fourth. That fourth question is at the heart of Ojakangas' paper. It is not directly addressed in Ojakangas' more faithful rendition of Foucault, but it is central to Agamben's betrayal of him. It is the problematic that biopolitics poses to us and which I want to broach in reply to Ojakangas' paper. That problematic is the problematic of the 'life' of politics itself. In so doing I take some issue with the account of biopolitics offered by both Agamben and Ojakangas.

The nomological concerns the law, the biological concerns 'life' and the theological concerns the relation of life to transcendence in the form of divinity. At a philosophical level, the life of politics may be said to find its

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1 All working within a tradition – all passing on and down - is necessarily tainted by betrayal of the message. That is why for the early Christian Church *traditio* was a sin. See Michael Dillon, "Paradosis," *Journal of the British Society for Phenomenology*, Vol. 20, No. 3, (1995): 229-240.

bearings in relation to the changing interpretations and correlations of force that characterise the intimate relationality of this trinity of *nomos*, *bios* and *theos*.<sup>2</sup> Agamben takes Foucault's account of biopolitics away from history and relocates it back in the centre of these key determinants of political philosophy. Whereas Agamben's nomological account of biopolitical violence threatens a certain kind of political paralysis, however, in as much as it ontologises that violence, Ojakangas' insistence on the productivity of biopolitics threatens to elide the violent inner logic of biopolitics and to miss what Agamben's nomologically driven ontologisation nonetheless does rigorously expose. Incomparably the most interesting thinker thinking today, one of the things that Agamben is thinking in response to the provocations of biopolitics is the question of life undetermined by the life of biopolitics, a life elevated in addition by a refiguration of transcendence without a godhead, in the form of the immanence of the messianic. He also thinks the facticity of a corporeality beyond the reduction of the body to biology.<sup>3</sup> It is in these moves, among others, that he thinks beyond the initial provocation to political thought that he takes from Foucault's biopolitics. Like any such response, the issue becomes less the degree of faithlessness than the worth of the betrayal.

Agamben engages in a nomological manoeuvre that conflates sovereign with biopower. He also ontologises political modernity with that manoeuvre. He then 'iconicises' this ontologisation in the compelling but, in certain respects, politically debilitating figure of the Camp.<sup>4</sup> In documenting Agamben's departure from Foucault, however, and insisting correctly, but perhaps not insistently enough, on the historico-epistemological account of biopolitics furnished by Foucault, Ojakangas fails to emphasise sufficiently that, while recalling the Christian pastorate, Foucauldian biopolitics largely derives instead from Foucault's account of a complex epistemological transformation in the interpretation and scientific study of life. Moreover, neither Agamben nor Ojakangas acknowledge the historical and epistemological significance of the manifold ways in which the event of biology's biologisation of life continues to mutate, driven by successive changes in the character of the life sciences themselves. These have proceeded throughout the latter half of the twentieth century to subvert key ontological

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2 Agamben's employment of the distinction between *bios* and *zoe* in *Homo Sacer* (Stanford: Stanford University Press, 1998) seems problematic but I have no space to explore the issue. For the moment I merely want *bios* (while crudely connoting the biological) to signal the question of 'life'.

3 Giorgio Agamben, *The Coming Community* (Minneapolis: Minnesota University Press, 1993).

4 Again there is no space to elaborate this point. In making it I do however want to acknowledge that ontologisation may be a powerful politicising manoeuvre. But there are others: historical 'fictions', liberation of subjugated knowledges, micro-political analysis of the micro-practices of power relations are amongst some others inspired by Foucault.

markers of certainty between the organic and the non-organic, the living and the not living, which once determined the vital signs of what a living thing was once said to be.<sup>5</sup> They have also introduced many other newly emerging changes in the governmental practices of biopower. In short, the terrain of value across which the manifold circulations of biologised life is increasingly being distributed is changing in response to the recombinatory possibilities and prospects opened up, in particular, by techno-scientific developments deriving from the complex confluence and correlations of the molecular and the digital revolutions. As a result, we increasingly live in an age of 'recombinant biopolitics'.<sup>6</sup>

Recombinant biopolitics poses political challenges of an order beyond those posed through the figure of the Camp. Similarly, it poses biopolitical investment challenges beyond the technical virtuosity demanded by the care for all living that initially characterised Foucault's original account of biopolitics. Whatever life now is, it is no longer the original biologised life of early biopolitics. For one thing, it has now long been a function of the recombinant power of molecularised biology in complex alliance with digitalised intelligence. Whatever life now is, Agamben's work also re-sanctifies as it seeks radically to re-theorise life politically in what I would label the pure revolutionary terms of the messianic.<sup>7</sup> At issue among other things in evaluating that move is the question also of the violence peculiar to the messianic, a trope now prominent among, if differently conceived by, leading continental thinkers.<sup>8</sup>

The manifold technical challenges now posed to biopower are already being met in detailed adjustments to the governing practices of biopolitics which Agamben's figure of the Camp and Ojakangas account of biopolitics both fail to address. That may be said to be an unfair comment, since

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5. See for example: Peter Beurton, et. al., *The Concept of the Gene in Development and Evolution. Historical and Epistemological Perspectives* (Cambridge: Cambridge University Press, 2000); Katherine Hayles, *Katherine, How We Became Posthuman: Virtual Bodies in Cybernetics, Literature and Informatics* (Chicago: University of Chicago Press, 1999); Evelyn Fox-Keller, *The Century of the Gene* (Cambridge Mass: Harvard University Press, 2000). Richard Doyle, *On Beyond Living. Rhetorical Transformations of the Life Sciences* (Stanford: Stanford University Press, 1997); and Doyle, *Wetwares. Experiments in Postvital Living* (Minneapolis: University of Minnesota Press, 2003). Lily E. Kay, *The Molecular Vision of Life: Caltech, the Rockefeller Foundation and the Rise of the New Biology* (New York: Oxford University Press, 1993); and Kay, *Who Wrote the Book of Life. A History of the Genetic Code* (Stanford: Stanford University Press, 2000); Eugene Thacker, *Biomedica* (Minneapolis: Minnesota University Press, 2004).
  6. Michael Dillon and Julian Reid, "Global Liberal Governance: Biopolitics, Security and War," *Millennium Journal of International Studies*, Vol. 30, No. 1 (2001): 41-66.
  7. Catherine Mills, "Agamben's Messianic Politics: Biopolitics, Abandonment and Happy Life," *Contretemps*, Vol. 5 (December, 2004): 42-62.
  8. Michael Dillon, "A Passion for the (Im)possible: Jacques Rancière, Equality Pedagogy and the Messianic," *European Journal of Political Theory*, Vol. 4, No. 4 (2005).

Ojakangas is concerned with an exegesis of Foucault in order to document how Agamben's nomological biopolitics differs from Foucault's historico-epistemic biopolitics, if it wasn't for the fact that a hermeneutics of suspicion central to Foucault's account of biopolitics seems missing from Ojakangas' account. The contemporary challenges now posed by recombinant biopolitics re-invigorate Foucault's hermeneutics of suspicion, a suspicion that led him to observe how biopolitics penetrates and permeates sovereign politics:

I wouldn't say exactly that sovereignty's old right – to take life or let live – was replaced, but it came to be complemented by a new right which does not erase the old right but which does penetrate it, permeate it. This the right, or rather precisely the opposite right. It is the power to make live and 'let' die.<sup>9</sup>

In a way directly *contra* to Agamben, Foucault insists, "I would in fact like to trace the transformation not at the level of political theory, but rather at the level of the mechanisms, techniques and technologies of power."<sup>10</sup> Put positively, in a way directly *contra* Foucault, Agamben insists on re-theorising politics.

Emphasising the biologisation of life taking place in biopolitics, "the new non-disciplinary power is applied not to man-as-body but to the living man, to man-as-living-being; ultimately to man-as-species."<sup>11</sup> Foucault continues this theme in *Naissance de la Biopolitique*.<sup>12</sup> Here, it is 'circulation' that begins to specify the terrain of value across which "man-as-living-being" begins to be ordered. Circulation becomes a matter of, "taking control of life and the biological process of man-as-species and of ensuring that they are not disciplined but regularised."<sup>13</sup>

Biopolitically, it is also contingency that characterises this new biopolitical field of governmental formation: "The phenomena addressed by biopolitics are, essentially, aleatory events."<sup>14</sup> Here we might argue against Agamben that the *nomos* of political modernity is not the Camp. In as much as political modernity has gone thoroughly biopolitical, in Foucault's sense of the term, the *nomos* of political modernity is 'circulation'.<sup>15</sup>

Moreover, in the biopolitical context of the circulation of life as species being, Foucault says death is not so much disqualified, but, "something to be

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9 Michel Foucault, *Society Must Be Defended, Lectures at the Collège de France, 1975-1976* (New York: Picador, 2003), 241.

10 Foucault, *Society Must Be Defended*, 241.

11 Foucault, *Society Must Be Defended*, 242.

12 Michel Foucault, *Naissance de la biopolitique: Cours au Collège de France, 1978-79* (Paris: Gallimard/Seuil, 2004).

13 Foucault, *Society Must Be Defended*, 246-247.

14 Foucault, *Society Must Be Defended*, 246.

15 Michel Foucault, *Sécurité, territoire, population. Cours au Collège de France, 1977-78* (Paris: Gallimard/Seuil, 2004); Foucault, *Naissance de la biopolitique*.

hidden away.”<sup>16</sup> It loses that spectacular ritual character it once had, marking the move from one power, that of secular sovereignty, to another power, that of a sovereign God. Death does not disappear from biopolitics. Neither is it attenuated beyond political concern, quite the contrary. It changes its character, undergoing political transformation as biopolitics re-inscribes death in the process of ‘recuperating the death function’. Whereas no power can ultimately exercise power over death, biopower can and does exercise power over life. One of the means by which it does so is via the biopolitical preoccupations with mortality, morbidity, pathology and mutation. Concerned with death in terms of the vital signs of life, biopolitics is also increasingly concerned these days with the re-inscription of the vital signs of life in terms of code, both molecular and digital.<sup>17</sup>

Contra Ojakangas, then, biopolitics does reclaim the death function, for a number of reasons and in a variety of changing ways. It must do so. Reclaiming the death function is integral to its logic. It also reflects the changing operational dynamics of biopolitics. In relation to biopolitical logic: “In the biopower system... killing, or the imperative to kill, is acceptable only if it results not in a victory over political adversaries, but in the elimination of the biological threat to and the improvement of the species or race.”<sup>18</sup> It is acceptable and biopolitically necessary to kill, if not necessarily in the nomological sense of being exposed to death formulated in Agamben’s thesis of bare life. In relation to the operationalisation of biopolitics: if biopolitics is to promote, protect and invest life, it must engage in a continuous assay of life. This continuous biopolitical assaying of life proceeds through the epistemically driven and continuously changing interrogation of the worth and eligibility of the living across a terrain of value that is constantly changing. It is changing now, for example, in response to what the life sciences are teaching about what it is to be a living thing. It is changing as biopolitical investment analysts (politicians, risk analysts, governmental technologists) also interrogate where the best returns on life investment happen to be located in the manifold circulation and transformation of life locally and globally. Life itself mutates in and through these very circuits, not least in relation to molecular biology and electronic communication. We can broadly interpret life science now to range from molecularised biology, through digitalization, to the new social and managerial sciences of development now prominent in the fields of global governmentality, global

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16 Foucault, *Society Must Be Defended*, 247.

17 Sarah Franklin and Margaret Lock, eds., *Remaking Life and Death, Towards an Anthropology of the Life Sciences*, Santa Fé: School of American Research Press, 2003.

18 Foucault, *Society Must Be Defended*, 256.

development policies, human security and even military strategic discourse including, for example, 'Operations Other than War'.<sup>19</sup>

One might say in Heideggerian fashion that life is the stuff of biopolitics. In the process of reducing life to stuff, biopolitics must determine the quality of the stuff so that investment in its extraction, promotion and refinement may itself be continuously assessed. It follows that some life will be found to be worth investment, some life less worth investment, while other life may prove intractable to the powers of investment and the demands it makes on life. Here, assaying morphs into evaluating the eligibility and not simply the expected utility of life forms. Ultimately, some life may turn out to be positively inimical to the circulation of life in which this investment driven process of biopolitics continuously trades, and have to be removed from life if its antipathy to biopoliticised life cannot otherwise be adapted, corrected or contained. Behind the life-charged rhetoric of biopolitics, lies the biologisation of life to which biopolitics is committed, the violence of that biologisation and the reduction of the classical political question concerning the good life (and the good death) to that of the endlessly extendable, fit and adaptable life.<sup>20</sup> The good life Agamben refigures in terms of the pure – he also says 'profane' but note that there is no profanity without sanctity - immanence of 'happy life'.<sup>21</sup>

At the level of its micro-practices, biopolitical techniques of rule are thus adjusting technically to changing understandings of the vital signs of life. Life Assurance provides one example. It is now beginning actuarially to accommodate the ways in which the genetic revolution impacts on the 'life' to be assured. Whereas the statistical analysis of risk populations once relied upon the behavioural techniques of probability, actuarial expertise must now adjust to what the molecular as well as the behavioural sciences now teach about the terrain of value (and risk) across which the life of recombinatory biopolitics is beginning to be distributed.<sup>22</sup>

The key point of dispute with Agamben is then ontologisation versus historicisation. In effect that dispute restages the age old dispute between the

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19 Wendy Larnier and William Walters, eds., *Global Governmentality. Governing International Spaces* (New York: Routledge, 2004); Dillon, and Reid, "Global Liberal Governance."; Michael Dillon, "Virtual Security: A New Science of (Dis)order," *Millennium Journal of International Studies*, vol. 32, no. 3 May, (2004).

20 For a stimulating reflection on time and death in the entanglement of biopower and historiography, see Paolo Palladino, "Caveat Emptor: On Time, Death and History in Late Modernity," *Rethinking History*, vol. 8, no. 3 (2004): 402-416.

21 Giorgio Agamben, *The Coming Community* (Minneapolis: Minnesota University Press, 1993); Agamben, *Potentialities. Collected Essays in Philosophy*, Stanford: Stanford University Press, 1999; Agamben, *Means Without Ends: Notes on Politics* (Minneapolis: Minnesota University Press, 2000); Mills, "Agamben's Messianic Politics."

22 James Mittra, and Sir John Sulston, "Genetics and Life Assurance. Should We legislate?" *News Letter of the ESRC Genomics Network*, ESRC: Swindon, 2004.

thinker who thinks philosophically and the thinker who thinks politically – the conflict between *philosophia* and *politeia*. As first philosopher, Agamben equates politics with thinking as such.<sup>23</sup> I wonder whether first philosophy comes first, which is why, acknowledging the vital question of conditions of possibility, I nonetheless remain attracted to Foucault's insistence on history and the micro-practices of power relations.

The key point of dispute with Ojakangas concerns the self-immolating logic of biopolitics. "Not bare life that is exposed to an unconditional threat of death," he says in the introduction to his paper, "but the *care of 'all living'* is the foundation of biopower." (emphasis in the original). Ojakangas says: "Foucault's biopower has nothing to do with that [Agamben] kind of bare life." I agree. Foucault's biopolitics concerns an historically biologised life whose biologisation continues to mutate as the life sciences themselves offer changing interpretations and technical determinations of life. This biologised life of biopolitics nonetheless also raises the stake for Foucault of a life that is not a biologised life. So it does for Agamben, but differently and in a different way.<sup>24</sup> For Foucault, the biologised life of biopolitics also raises the issue of a life threatened in supremely violent and novel ways. So it does for Agamben, but again differently and for the same complex of reasons.<sup>25</sup>

In contesting Agamben in the ways that he does, Ojakangas marks an important difference, then, between Foucault and Agamben. That done, perhaps the difference needs however to be both marked differently and interrogated differently. I have argued that there is a certain betrayal in the way Agamben reworks Foucault. There is however much more going on in this 'betrayal' than misconstruction and misinterpretation. There is a value in it. Exploring that value requires another ethic of reading in addition to that of the exegesis required to mark it out. For Agamben's loathing of biopolitics is I think more 'true' to the burgeoning suspicion and fear that progressively marked Foucault's reflections on it than Ojakangas' account can give credit for, since he concentrates on providing the exegetical audit required to mark it out rather than evaluate it.

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23 Agamben, *Potentialities*; Agamben, *Means Without Ends*.

24 Moreira and Palladino site a related discussion of Foucault and Agamben in the context of a detailed account of contemporary bio-medical change. See, Tiago Moreira and Paolo Palladino, "Between Truth and Hope: On Parkinson's Disease, Neurotransplantation and the Production of the Self," *History of the Human Sciences*, forthcoming 2005.

25 Mills, "Agamben's Messianic Politics."; Adam Thurschwell, "Specters of Nietzsche: Potential Futures for the Concept of the Political in Agamben and Derrida," *Cardozo Law Review*, Vol. 24, 2003; and Thurschwell, "Cutting the Branches for Akiba: Agamben's Critique of Derrida," in Andrew Norris, ed., *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer* (Durham, N.C.: Duke University Press, forthcoming, 2005).

In posing an intrinsic and unique threat to life through the very ways in which it promotes, protects and invests life, 'care for all living' threatens life in its own distinctive ways. Massacres have become vital. The threshold of modernity is reached when the life of the species is wagered on its own (bio) political strategies. Biopolitics must and does recuperate the death function. It does teach us how to punish and who to kill.<sup>26</sup>

Power over life must adjudicate punishment and death as it distributes life across terrains of value that the life sciences constantly revise in the cause of life's very promotion. It has to. That is also why we now have a biopolitics gone geopolitically global in humanitarian wars of intervention and martial doctrines of virtuous war.<sup>27</sup> Here, also, is the reason why the modernising developmental politics of biopolitics go racist: "So you can understand the importance – I almost said the vital importance – of racism to such an exercise of power."<sup>28</sup> In racism, Foucault insists: "We are dealing with a mechanism that allows biopower to work."<sup>29</sup> But: "The specificity of modern racism, or what gives it its specificity, is not bound up with mentalities, ideologies or the lies of power. It is bound up with the techniques of power, with the technology of power."<sup>30</sup>

In thus threatening life, biopolitics prompts a revision of the question of life and especially of the life of a politics that is not exhaustively biologised; comprehensively subject to biopolitical governance in such a way that life shows up as nothing but the material required for biopolitical governance, whether in terms posed by Foucault or Agamben. Emphasising care for all living - the promotion, protection and investment of the life of individuals and populations – elides the issue of being cared to death. Being cared to death poses the issue of the life that is presupposed, nomologically for Agamben and biologically for Foucault, in biopolitics. Each foregrounds the self-immolating logic that ineluctably applies in a politics of life that understands life biologically, in the way that Foucault documents for us, or nomologically, in the way that Agamben's bare life contends. When recalling the significance of the Christian pastorate to biopolitics, Ojakangas seems to emphasize a line of succession rather than of radical dissociation. One, moreover, which threatens to elide the intrinsic violence of biopolitics and its essential relation with correction and death.

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26. Mitchell Dean, 'Liberal government and authoritarianism', *Economy and Society*, Vol. 31, No. 1 (2002): 37-61; and Dean, 'Powers of life and death beyond governmentality,' *Journal of Cultural Research*, Vol. 6 Nos. 1-2, (2002).

27 Mark Duffield, *Global Governance and the New Wars. The Merging of Development and Security*, London: Palgrave/Macmillan, 2001; James Der Derian, *Virtuous War. Mapping the Military-Industrial-Media-Entertainment Network* (Oxford: Perseus, 2001).

28 Foucault, *Society Must Be Defended*, 256.

29 Foucault, *Society Must Be Defended*, 258.

30 Foucault, *Society Must Be Defended*, 258.

Something also happens to the *theos* as 'care of all living' is propelled by its vocation to distribute mortality and death, newly inscribed, across the terrain of value that it remorselessly constructs for life. This re-marking of *theos* nonetheless also marks a kind of threshold effect or phase change. Thriving on correction and death, albeit biopolitically transfiguring them in the process through the micro-practices of its continuously changing technologies of care, biopolitics effects some curious transformation of that vexed issue of transcendence for which the *theos* of onto-theology once stood. As if the exclusive emphasis on life should exclude the question of the not life, of the other of life and of the beyond of living, biopolitics nonetheless finds itself ensnared at every level in precisely these issues. New, biopoliticised, vocabularies emerge to address them. Note, for example, the proliferation of ethics committees in relation to genetic science and the allied recruitment of philosophy into the task of forming a new molecular clerisy for the liturgical governance of it.<sup>31</sup>

Caring to death, reinvigorated by the emergent powers of recombination, contemporary biopolitics poses novel dangers, however, to which continental philosophy is now responding in the voice of the messianic. Despite my disputing, Agamben's figure of the Camp is no hyperbolic response then to the profundity, as well as the enormity, of the stakes now posed by contemporary biopolitics in and through the dense globally evolving web of its micro-political practices. Precisely because it is a strategically sophisticated operation of heterogeneous, plural and disseminated power relations of unrivalled virtuosity, contemporary biopolitics calls for an equally heterogeneous and disseminated but quite differently ordered virtuosity, not merely of dissent but of a positively different living of life. Betraying Foucault because I think he shares that cause with him, Agamben pushes the thinking of it into realms that confront the death of God with a re-thinking of the good in terms of the figure of 'happy life'.<sup>32</sup> Doing so, Agamben's nomological biopolitics recalls the issue of the transcendent at work within the immanent as it contests the nomological reduction of life to bare life; a feature complementary to that of Foucault's biologised life, posing a complex of political questions about the contesting of each. This is not meant to pose some covert transcendental critique of Foucault. The whole question of the relation of transcendence and immanence is a complex one. It is being newly re-thought in the thought of the messianic, as the concept of the messianic arises differently in contemporary continental thought.<sup>33</sup> What Agamben's nomologisation of Foucault poses is the question

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31 Although they don't quite put it like this, see again the detailed argument presented in Moreira and Palladino, "Between Truth and Hope."

32 Mills, "Agamben's Messianic Politics."

33 Giorgio Agamben, *The Time That Remains. A Commentary on the Letter to the Romans* (Stanford: Stanford University Press, 2005); Alain Badiou, *Saint Paul. The Foundation of*

of whether or not a purely immanent critique of biopolitics is sufficient or even possible. If ultimately judged to be neither sufficient or possible, and Agamben clearly thinks both, that judgment poses the additional question of some sort of transcendence at work within the immanent. For that, here at least, we have to thank Agamben; or not, if such a question troubles and disturbs you.

### **Acknowledgments**

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*Universalism* (Stanford: Stanford University Press, 2003); Walter Benjamin, "Critique of Violence," in *Walter Benjamin Selected Writings Volume 1*. (Cambridge, Mass.: The Belknap Press of Harvard University Press, 1996): 236-253; Jacob Taubes, *The Political Theology of Saint Paul*, (Stanford: Stanford University Press, 2004); and Jacques Derrida, *The Gift of Death* (Chicago: Chicago University Press, 1995); Derrida, "Force of Law," in Drucilla Cornell, ed. *Deconstruction and the Possibility of Justice* (New York: Routledge, 1993); and Gil Anidjar, ed. *Jacques Derrida. Acts of Religion* (New York: Routledge, 2002).