

Altonaer Stiftung für philosophische Grundlagenforschung

October 14, 2009

A WORKSHOP ON ‘THE WRONG OF LAW’

Invitation

The ASFPG invites you to attend a small and informal workshop focused on Valerie Kerruish’s work on the wrong of law. The workshop will take place at the Stiftung’s premises on **27th–29th November, 2009** beginning at 16.00 on Friday and ending 13.00 on Sunday.

The Stiftung is an independent foundation located in Hamburg, Germany with a commitment to furthering interdisciplinary work on basic conceptual issues and practical problems in the areas of logic and metaphysics, legal theory and the ethics of science and technology. The workshop is organized by the Stiftung’s Centre for Legal Theory. It will support participants financially by paying travel costs (economy), accommodation for three nights and a modest per diem. Refreshments, lunches and an evening dinner will be provided by the Stiftung. Further information regarding the Stiftung is found on our website: www.asfpg.de.

The Workshop

My work on conceiving ‘the wrong of law’ follows on from *Jurisprudence as Ideology* (1991) but breaks with the materialist ontology/realist epistemology of that work. What takes its place as a basis is Hegel’s idea of thought’s dialectical and logical foundation minus his rejection of mathematical methods. My supposition is that such methods provide an effective means of realising that foundation, that is, of an actual derivation of categories. Assuming (as, I think, does Veitch in *Law and Irresponsibility*) that law in European societies and those of Europe’s former settled colonies (at a minimum) strongly shapes notions of right and wrong, that basis or foundation is relied on to enable a thinking of the ‘wrong’ of the wrong of law *before* law has asserted its jurisdiction over it.

It is then work that engages metaphysics and the various attempts in the twentieth century to overcome, destruct, deconstruct or replace metaphysics but, aimed as it is at conceiving the wrong of law, it is as much premised on law as a social and cultural institution as on the idea of thought's dialectical logical 'foundation'. Bridging the two largely goes by way of Marx's encounter with the fetish character of commodities but also on Bourdieu's thought on 'the force of form', to focus on 'law' as a particular form of right. Doctrine and techniques of its application in the exercise of jurisdiction — *the* law of modern Europe and its former settled colonies — then become a further site of the work. A contention here is that once law's modern (and now postmodern) form has taken over a social formation, legal doctrine and reasoning both reveals and conceals the wrong of law. The last contention makes 'the form of law' and the 'force of form' focal. The first phrase is taken over from Pashukanis, the second from Bourdieu. Questions of form, formalisation and formalism in various contexts are theoretically close by.

But what of the politics of this endeavour to think the wrong of law? I share Christadoulidis' (2008) views on misbegotten ethical turns and broken middles without enthusiasm for Badiou's currently popular alternative. What can theory do to generate the political will he finds lacking? Does he, moving to a different theoretical setting, as charged by Lindahl (2007) "fall prey to the metaphysics of presence that governs constitutional orthodoxy: a collective subject is either represented by constituted powers or directly present to itself as a constituent power" (p.18 n.33). Is not the charge itself enclosed in politically exhausted phrases? Can any phrase be otherwise in these days of hyper-derivatives? Isn't performativity and affect if not the answer at least a strategy of resistance to approaches which still think universality with a European face? And then, to come back my work on the wrong of law, what political gain is to be had in a *concept*?

To keep the workshop informal, my inclination is not to programme it fully. I propose giving a talk for the opening session and Tarik has kindly agreed to lead a discussion on (a revised version of) the paper previously circulated 'But what's it got to do with *law*'. Apart from that and at least one reading session, my current idea is to structure the workshop around the 'Theses' circulated. Participants in the workshop are asked to engage critically with them bringing their questions, criticisms, suggestions, insights to the workshop. I will circulate further material — bits of a manuscript, mostly prefaces to its different parts and introductory sections of chapters — in a couple of weeks time. If participants have thoughts and questions on the theses that they wish to pre-circulate, perhaps as a proposed session, that would work well. Otherwise we can work out an approach in discussion following my talk (on Friday) or Tarik's (on Saturday morning).

Reading session: I have a couple of suggestions. From Pierre Bourdieu's *Pascalian Meditations* tr. Richard Nice, Postscript 2 to Ch. 1 'Forgetting history' ((pp. 43–48) and Ch. 3 'The Historicity of Reason' (pp. 93–127). (In quite some respects, most particularly the 'force of form' I am indebted to but at odds

with Bourdieu.)

Jean-Luc Nancy, 'The surprise of the event' in *Being Singular Plural* tr. Robert D. Richardson and Anne E. O'Byrne, pp 159–176. (For much the same reason but also for an approach to 'the event' which contrasts with Alain Badiou's.) And/or 'The two secrets of the fetish' in *Diacritics*, Summer 2001, 3–9. (I don't understand this essay and would like to!)

Michael Friedman, *A parting of the ways: Carnap, Cassirer and Heidegger* (2000) Preface (pp.ix–xiii) and Chs. 2 and 3 'Overcoming metaphysics: Carnap and Heidegger' and 'The Neo-Kantian Background (pp 11–37) (A (neo-Kantian) perspective on the analytic/continental divide.)

Your input in planning the workshop and on other reading would be very welcome. A 4.00 – 6.00 pm start on Friday, a full working Saturday and Sunday morning with closing over or before a late lunch on Sunday is currently envisaged.

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| Emilios Christodoulidis | Valerie Kerruish |
| Tarik Kochi | Stewart Motha |
| Colin Perrin | Johan Van der Walt Scott Veitch |

Pro forma: Stiftung Board members, Matthias Kaiser and Uwe Petersen

Valerie Kerruish, Hamburg.