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# Constitutions and Culture Studies

Gayatri Chakravorty Spivak

I wrote this paper in response to a hundred-odd manuscript pages of Bruce Ackerman's forthcoming book *Discovering the Constitution*.<sup>1</sup> Fleshing it out, I have come to sense that the paper shares some of the occupational weaknesses of the new and somewhat beleaguered discipline of a transnational study of culture, especially if that study steps back from what is perceived as contemporary. Conceptual schemes and extent of scholarship cannot be made to balance. Once again, then, the following pages must be offered as possible directions for future work.

Here is a summary of my understanding of what I read in Professor Ackerman's manuscript pages:

A dualist view of U.S. political practice is true to American political philosophy and history. Legitimizing it in terms of foreign (read European) models is incorrect. The dualism is between normal everyday politics where We the People are not much involved. Contrasted to this are the great changes in political practice—constitutional politics—where We the People are mobilized and involved in the process of change through higher lawmaking. Professor Ackerman is aware that by thus naming the Letter and the Spirit of the law, so to speak, as *normal* and constitutional, he is taking the view that the role of We the People in the American polity is activated in "exceptional" cases.

Ackerman's historical account discloses that these revolutions in the law are also managements of crisis. Although We the People were mobilized at the time of Reconstruction, it was the crisis of a possible impeachment of the President that brought the Constitutional amendments. Similarly, in spite of the electoral mobilization of We the People, it was the crisis of a possible court-packing that brought in the welfare state of the New Deal. Thus the changes from a federalist division of powers through a nationalist separation of powers to the consolidation of Presidential power can be inserted into a continuation of *normal* political practice. Indeed, if I understand right, Professor Ackerman comes close to suggesting that, in the modern context at least, the electoral mobilization of We the People provides an alibi for crisis-management among the powers by allowing the party to claim "A People's Mandate."

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1. I am grateful to Professor Ackerman for allowing me to refer to unpublished work.

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We are, in other words, hearing the story of the gradual constitution (small c), normalization, and regularization of something called the People (capital P) as a collective subject (We) in the interest of crisis-management. Professor Ackerman acknowledges that “the Constitution presupposes a citizenry,” and calls this process the “popular cultivation of the arts of liberal citizenship.” And, if you will forgive a slightly tendentious phrase, “the ideological state apparatus” does work to this end.

Here is the making of a collective “We the People” in the high school classroom:

Mr. Bower’s American Government class has been studying the U.S. Constitution. He has designed a rich multiple-ability groupwork task to help his students understand the relationship among the three branches of the federal government. To reach his objectives, he wants to challenge the students to think metaphorically and to produce insights that allow students to use their critical thinking skills. . . . The task will require many different abilities. Some students will have to be good conceptual thinkers; some will need to be good artists; at least one person will have to be able to quickly find the relevant passages in the Constitution; and someone will need to have strong presentation skills. . . . [This] example . . . demonstrate[s] the advantage of groupwork that may be gained with the proper preparation and structure necessary for success.<sup>2</sup>

Mr. Bower is preparing a General Will where the signifier “People,” seemingly remaining constant as a referent, is being charged with a more and more distanced and mediated signification, as actual agency passes from the popularly elected House of Commons model to today’s electoral securing of the noun implicit in the adjective “Popular” in “Popular Mandate.” I do not question the astuteness of Professor Ackerman’s analysis or the efficiency of the gradual reconstitution of the signifying phrase “We the People.” I do however question the conviction that this reading gives America back to the people in the American way. I dare to say this because such an unexamined view of the academic’s social task is currently laying waste our own field of humanistic education—the proper field of the production of something called a “People.”<sup>3</sup>

If we move from the techniques of knowledge production to the techniques of the electoral securing of the People’s Mandate, this becomes even clearer. Editorials in all major newspapers have commented exten-

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2. Elizabeth G. Cohen and Joan Benton, “Making Groupwork Work,” *American Educator* 12, no. 3 (Fall 1988): 11-12.

3. E. D. Hirsch, *Cultural Literacy: What Every American Needs to Know* (New York: Vintage Books, 1987), and the recent directive for a 50-hour curriculum by Lynn Cheney, the Director of the National Endowment for the Humanities are two tremendously influential examples.

sively on the fact that, under media management, candidates at all levels are becoming detached from local or popular constituencies. Jean Baudrillard has called this the electronic production of the “hyper-real,” which is simulated by agencies of power as the Real itself. “Simulation” here means declaring the existence of something that does not exist. Attention to the details of meaning-making might describe the mechanisms of securing a higher law as a spectacular and seamless exercise in simulation.<sup>4</sup>

I have taken a dualist, exceptionalist, and crisis-management reading of the Constitution as instrument of higher lawmaking through Popular Mandate to its logically rather unsettling consequences to highlight an obvious point: A constitutional victory operates within a calculus that does not correspond to the possibility or even the guarantee of justice in the name of any personalized picture of a collection of subjects called “We the People.” In fact, as I will insist later in this paper, a constitution can operate only when the person has been coded into rational abstractions manipulable according to the principle of reason. The presupposed collective *constitutional agent* is apart from either the subject, or the universal-in-singular ethical agent.

Yet the narrative guarantee of justice in the name of a collection of subjects is perennially offered as legitimation to the people who will secure the “Popular Mandate.” And the authority behind this narrative legitimation—the Constitution as the expression of the general will to justice exercised in time of crisis—is itself secured with reference to an origin-story: the original documents left by the Founding Federalists, Reconstruction Republicans, New Deal Democrats.

It seems to me that an innovative and flexible text for use such as the U.S. Constitution can only be given what Jean-Francois Lyotard has called a paralogical legitimation.<sup>5</sup> In other words, it provides occasion for morphogenetic innovation—innovations leading to new forms.

Strictly speaking, *paralogical* legitimation is not *teleological*. Yet the legitimizing debates at times of crisis impose closure by claiming faithfulness to original intent, even if only the intent to keep the document historically flexible, and thus restoring its origin by gaining its end. The more “accurate” guarantee, not of justice as the expression of a general will of We the People, but of a persistent critique of originary legitimations, by the very people who supply the Popular Mandate for the electoral machinery, can be precariously fabricated if the paralogical is kept in mind.

One of the counter-narratives that can help as a reminder of the paralogical is of the contingency of origins. Let me give you an example.

Professor Ackerman correctly states that the American origin was not

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4. Jean Baudrillard, “The Precession of Simulacra,” in *Simulations*, tr. Paul Foss et al. (New York: Semiotext(e), 1983).

5. Jean-Francois Lyotard, *The Postmodern Condition: A Report on Knowledge*, tr. Geoff Bennington (Minneapolis: Univ. of Minnesota Press, 1984).

simply “an escape from old Feudalism,” as de Tocqueville would have it, but a new start. Is it banal to remind ourselves that this new start or origin could be secured because the colonists encountered a sparsely populated, thoroughly pre-capitalist social formation that could be managed by pre-political maneuvers? Robin Blackburn’s recent compendious book *The Overthrow of Colonial Slavery* has argued that the manipulation of chattel slavery as an item of political economy was also effective in securing a seemingly uninscribed slate in a space effectively cleared of political significance in the indigenous population. No discussion of the historical development of the mode of operation of the Constitution can afford altogether to ignore this rusing at the origin:

The key slogan in the struggle against the British had been “no taxation without representation.” . . . The acceptance that slaves as wealth should entitle Southern voters to extra representation built an acknowledgement of slavery into the heart of the Constitution. . . . The text of the Constitution resorted to shamefaced circumlocution rather than use the dreaded words “slave” and “slavery”: “Representatives and direct Taxes shall be apportioned among the several states which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other persons.”<sup>6</sup>

Later in this essay I will present Derrida’s discussion of the originary hypocrisy that produces all signatories: the politics of the proper name. Here the origin of the “Good People” of these colonies guaranteeing as they are guaranteed by the signatories is secured by staging the hypocrisy in a theater of violence.

Since I am an Indian citizen, let me offer you a bizarre narrative of what, in Professor Ackerman’s vocabulary, may be called a “failed originary moment.” “After much hesitation . . . Elizabeth [I] . . . granted a charter of incorporation on December 31st 1600” to the East India Company. As is well known, there was increasing conflict between the British Government and the Company until, by Pitt’s India Act of 1784, “the control of the Company was brought under the House of Commons.”<sup>7</sup> Of course it is absurd to offer a fable as fact, or attempt to rewrite history counterfactually. But let us remember that Professor Ackerman has the integrity to admit that he too is retelling a story. Let us also remember that in the eighteenth century, economists such as Adam Smith, functiona-

6. Robin Blackburn, *The Overthrow of Colonial Slavery 1776-1848* (London: Verso, 1988), 123-24.

7. Arthur Berridale Keith, *A Constitutional History of India: 1600-1935*, 2nd ed. (London: Methuen, 1937), 1.

ries of the East India Company, as well as the British popular press, were exercised by the failed parallel between the American and Indian examples.<sup>8</sup> Let me therefore ask you to imagine that, because the East India Company was incorporated, and because India was not a sparsely populated, thoroughly pre-capitalist social formation easily handled through pre-political maneuvers and the manipulation of chattel slavery, in other words because it was not possible for a group of British merchants to establish a settlement colony there, no apparent origin could be secured and no Founding Fathers could establish the United States of India, no “Indian Revolution” against Britain could be organized by foreign settlers.

I admire the United States greatly, so much so that I have made it my second home, lived and worked here over half my life. Speaking as a not-quite-not-citizen, then, I would submit to you that Euramerican origins and foundations are *also* secured by the places where an “origin” is violently instituted. In the current conjuncture, when so much of the identity of the American nation-state is secured by global economic and political manipulation, and when the imminent prospect of large-scale fence-mending beckons and recedes, it is not disrespectful of the energy of We the American people to insist that domestic accounts that emphasize America as a self-made giant illegally wrenching the origin of freedom from merely a moribund Europe has its own political agenda.

## II

Constitutional talk is normally a tale of transactions between Europe and America. In my opinion, Transnational Culture Studies must put this transaction in an international frame. If, for example, the project of recovering or discovering the true structure of the national discourse from ideas of foreign manufacture is taken as a general principle of the study of constitutions, the enterprise would become productively problematic as soon as we move outside Euramerica. One cannot substitute “native” for “national” in that undertaking. A transnational study of culture will not neutralize or disciplinarize the problem by defining it away as “comparative” work, assimilate it by considering the last great wave of imperialism as basically a part of metropolitan history, or yet, however implicitly, bestow upon colonialism what Professor Bernard Williams has called “moral luck” in the context of ethical philosophy.<sup>9</sup>

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8. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Chicago: Univ. of Chicago Press, 1976), 2:150-51. Ranajit Guha, *A Rule of Property for Bengal: An Essay on the Idea of Permanent Settlement*, 2nd ed. (New Delhi: Orient Longman, 1981), 62 n. 2, 45, 75, 76.

9. Bernard Williams, “Moral Luck,” in *Moral Luck: Philosophical Papers, 1973-1980*, (Cambridge: Cambridge Univ. Press, 1981). See also Spivak, “Poststructuralism, Postcoloniality, Marginality, and Value,” in *Literary Theory Today*, ed. Peter Collier and Helen Geyer-Ryan (Cambridge: Polity Press, forthcoming).

Turkey is a most interesting case in point. If we take the Conquest of Istanbul (1453) as a dividing line, we can see parallel but highly differentiated formations developing in Mediterranean and Western Europe on the one hand and the Ottoman Empire on the other.<sup>10</sup> What characterizes the latter is the extraordinarily active and vastly heterogeneous diasporic activity that is constantly afoot on its terrain.

There is still an unfortunate tendency, in the "comparativist" arena, to represent the Ottoman Empire as governed by the static laws of something like "the Asiatic Mode of Production," with its change-inhibiting bureaucratic hierarchy and absence of private property in land.<sup>11</sup> If, however, Western Europe is not taken as a necessary norm, the successes and vicissitudes of the Ottoman Empire can be seen as an extraordinary series of experiments to negotiate questions of ethnicity, religion, and "national" identity upon a model rather different from the story of the emergence of nationalism in the former space. (I am of course not interested in legitimizing the Eurocentric model by endorsing an "Islamic Revival.") It has been argued by contemporary scholars that the economic formations of late 18th century Western Europe began to shift the balance within the Ottoman Empire so that its Muslim component began increasingly to slip or remain contained into a pre-capitalist mode. Professor Kemal Kerpat has argued that what was a curiosity about the West was gradually recoded as the necessity to imitate.<sup>12</sup> Religious nationalism began to grow as "the ideal of impartiality which insulated the bureaucracy" began to break down.

The Ottoman trade monopoly on the Black Sea came to an end in 1774. The Mediterranean trade had been dominated by the West. Now "for the common good of the two Empires," Russia stepped into the Black Sea trade. In 1798 Napoleon invaded Egypt, threatening the British trade route to India. "The Ottoman economy gradually entered a period of total submission to the industrial giants of Europe." In this transforming society, religious difference gradually gets politically re-coded as majorities and minorities, until, in a century's time, "the Ottoman government [is] increasingly called 'Turkish,' and 'Turkish' [now] means a dominant Muslim majority."

This is not merely a demographic change imposed from without. It is a

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10. This section relies on Maxime Rodinson, *Islam and Capitalism*, tr. Brian Pearce (Austin: Univ. of Texas Press, 1978) and Kemal H. Kerpat, *An Inquiry into the Social Foundations of Nationalism in the Ottoman State: From Social Estates to Classes, From Milletts to Nations* (Princeton University: Research Monograph No. 39, 1973). I have followed through their English-language documentation as far as possible. I am also grateful to Dr. Aysegul Baykan and Dr. Mehmet Ali Dikerdem.

11. Two impassioned exhortations against such tendencies are Perry Anderson, "Appendix," *Lineages of the Absolutist State* (London: Verso, 1974) and Edward W. Said, *Covering Islam* (New York: Pantheon, 1981).

12. Kerpat, *Inquiry*, 52. See also p. 57f. Quotations in the following paragraph are from pp. 55, 92.

discursive shift making possible certain kinds of statements, ultimately making possible a Turkish nationalist who “finds it ‘in vain to offer resistance’ to European civilization,” the “visionary mimic man as father of the nation,” Mustafa Kemal Atatürk.<sup>13</sup>

We are speaking of the same period—1774, 1798—as in the cases of the U.S. and India. But the narrative is different again. In the case of the United States, an originary claim is secured. In the case of India, colony and Empire step forth as place-holders for “a failed originary moment.” Here the question of origin is settled differently.

Let us consider secularism without the moralistic fervor with which we contemplate its “organic development” in the West, just as we thought of “nation”-s a moment ago without necessarily checking them against the story of the rise of nationalism in the West.<sup>14</sup> In a practically multi-national empire like the Ottoman, the separation of Church and State was practically effective in the interest of the overarching State. This secularism was not the name of the socializing of Western Christianity which has something like a relationship with the rise of industrial monopoly capitalist imperialism. It was rather a pre-capitalist practical (not philosophical) secularism which was given loose ideological support by a communitarianist universalism taken to be present in the Islamic *umma*. (Any suggestion that this can be suddenly injected into “Islamic” politics today is to work in the “naive conviction that the Muslim masses are still living in the religious atmosphere of the Middle Ages.”)<sup>15</sup>

The impact of a shift in world trade begins to reconstitute the *habitus* (Pierre Bourdieu’s term) of the region into the Western European discursive formation at the end of the 18th century. In other words, things begin to “make sense” in Western European terms. The Ottoman example is now a “deviation.” And now, in a reconstituted Muslim-majority Turkish State, it is possible for Western Europe to *offer* an *originary* model. Turkey begins to constitute itself as a nation-state. The Constitution of 1876 is its first inscription, the general “balkanization” of the Empire after the First World War its necessary military-political consolidation.<sup>16</sup>

13. Extract from a speech by Atatürk, quoted in Rodinson, *Islam*, 127.

14. That moral fervor itself has often served as alibi. “It [the pursuit of happiness] was developed into a supra-national secular ideology first in the form of the ‘liberal-humanitarian’ ideology (to use Mannheim’s terminology), with mobilizing forms such as French Jacobinism, in a number of countries (including in the East) and in a variety of periods. . . . But the use made of this ideology to provide cover for domination by the powers of money, and especially by American ‘Big Business,’ and also to disguise domination by Europe, has done it a very great deal of harm,” Rodinson, *Islam*, 234. This is of course rather an obvious point. I am always surprised to note how often it bears repeating. My source here is Rodinson because I am using him as one of my main secondary texts.

15. Rodinson, *Islam*, 231.

16. At this writing, the *New York Times* for Sunday, November 12, 1989, offered a series of rough maps of the area around East Germany in order to clue the reader into the nationalist-political movements after *glasnost*. It is interesting to watch the emergence and disappearance of the word “Ottoman” between the explanation material of the second and third frames (1933 to 1943!). If at all noticed, it stands in for a barely noticed pre-history for the U.S. reader careful enough to notice.



I have argued at length elsewhere that the peculiar play of contingency in the narrativization of history should not be construed as the Laws of Motion of History. My argument has been developed in the context of presenting a contrast between the circumstances contingent upon two great monotheisms—Christianity and Islam—in the possibility of their re-inscription as secularism as such.<sup>17</sup> This is not the moment to repeat that argument in detail. As an example I will refer to something from recent Indian history, without necessarily connecting it to my previous mention of the Indian case.

The Khilafat movement (1918-1925) in India, launched in the name of a multi-national unitarian universalist Islam supporting the Ottoman Caliphate, was out of joint with the times.<sup>18</sup> It was in fact an anti-imperialist nationalist attempt at the consolidation of the minority rights of Islam in India. Here too, the reconstitution of the Imperial Mughal State and the independent principalities of India through (more direct) contact with industrial monopoly capitalist imperialism had established a new habitus: majority-minority. In the sphere of decolonization it was European-style nationalism that was on the agenda. (In fact, that was the subtext of the Khilafat movement.) Thus, although the Khilafat movement lent support to the rise of Mustafa Kemal, the creator of “modern Turkey,” it was by Kemal’s Constitution, in early 1924, that the actual Khilafat or Caliphate was abolished. For the Indians, after a negotiated Independence, in 1947, Western European codes and English Common Law offered models of origin. The constitution of the secular state of India was launched under the auspices of Lord Mountbatten, although the voice of Islam and a semitized Hinduism as alternatives to the European Enlightenment were still heard.<sup>19</sup>

Let us look now at the question of origin in the Turkish case. A simulated alien origin or source, from which to draw “modernization” and constitutionality appears, politically and philosophically cognizable, facing a terrain re-territorialized in response to the global release of industrial Capital. The teleological vision of a Turkish “nation” now effaces the incessantly negotiated multi-nationality that was the Ottoman Empire because that can no longer be recognized as multi-“nation”-ality. The gap can be measured by the distance between Midhat Pasha’s Constitution of 1876 and Mustafa Kamal’s Constitution of 1924.

1876: Art. 1. The Ottoman Empire comprises present countries and possessions and semi-dependent provinces. It forms an indivisi-

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17. Spivak, “Reading *The Satanic Verses*,” *Public Culture* (forthcoming).

18. See Gail Minault, *The Khilafat Movement: Religious Symbolism and Political Mobilization in India* (New York: Columbia Univ. Press, 1982).

19. See Maurice Gwyer and A. Appadorai, eds., *Speeches and Documents on the Indian Constitution* (New York: Oxford Univ. Press, 1957). See also Granville Austin, *The Indian Constitution: Cornerstone of A Nation* (Bombay: Oxford Univ. Press, 1972).

ble whole, from which no portion can be detached under any pretext whatever. . . . Art. 8. All subjects of the Empire are called Ottomans, without distinction, whatever faith they profess; the *status* of an Ottoman is acquired and lost, according to conditions specified by law.<sup>20</sup>

1924: Art. 2. The Turkish State is republican, nationalist, populist, etatist, secular and reformist. . . . Art. 68. Every Turk is born free, and free he lives.<sup>21</sup>

Whatever the discrepancy, in the U.S. or in Turkey, “between constitutional norms and political realities,” between Empire and Nation, by 1924 “the free Turk” is coded into constitutional rationality as a person, as opposed to the Ottoman.<sup>22</sup> “The free American,” comparably coded, can disavow the contingent securing of his origin, and present his felicitous connection with world trade at the moment of origin (compounded by domestic simple commodity production with “organic” links to industrial capitalism) as *only* a bold rupture.<sup>23</sup> “The free Turk” is obliged to a perennial acknowledgement of European debt.

As for the Republic of India, which is now attempting to consolidate central power in the place of a loose federalist model, the most horrifying dissension is arising there from the lack of fit between the constitutional presupposition of a “People” and a heterogeneous electorate not “organically” deduced from it, blindly seeking other channels to national agency. The national agency of “foreign” provenance still remains the shaky alibi for federal policy.<sup>24</sup>

The Japanese Constitutions from 1889 to 1947, the latter (though this is at issue at the moment) drafted by staff members of General Douglas MacArthur, would provide another, quite different, set of manipulations of narratives of origin and end. In the interest of balance, I will not proliferate examples here.

I should, however, like to look at the “free Turk” in a sharper focus.

In the brief first section, entitled “Declarations of Independence,” of

20. *Turkey*, No. 2 (1877): Correspondence Respecting the Conference at Constantinople and the Affairs of Turkey, 1876-77 (London: Harrison and Sons, 1877).

21. Helen Miller Davis, *Constitutions, Electoral Laws, Treaties of States in the Near and Middle East* (Durham: Duke Univ. Press, 1953).

22. Bert P. Blaustein and Gisbert H. Flanz, eds., *Constitutions of the Countries of the World* (New York: Oceana, 1976), 4.

23. For a discussion of the paired modes of production, see Samir Amin, *Unequal Development*, tr. Brian Pearce (New York: Monthly Review Press, 1976), 21. The link is also between Virginia and New England.

24. For a study of communalism in India, see Bipan Chandra, *Communalism in Modern India* (New Delhi: Vikas, 1984). The following remark appeared in “The Week in Review,” *New York Times*, 15 Oct. 1989: “Many Indians say the legislature’s importance has been declining for two decades, first under Prime Minister Indira Gandhi and now under her son Rajiv. . . . A leading social scientist, Rajni Kothari, said in a recent interview that the five years of Mr. Gandhi’s Government ‘have been, institutionally, the worst in Indian history.’” The *New York Times* is not a scholarly organ, but it does reflect ideological trends. And Mr. Kothari is indeed a social scientist of stature.

*otobiographies*, Derrida points out that “the good People of these Colonies” in whose name the representatives sign the American Declaration of Independence do not, strictly speaking, exist. As such they do not yet have the name and authority before the Declaration. At the same time, they are required to produce the authority for a Declaration which gives them being.

“This outrageous thing [is] quotidian.”<sup>25</sup> That fact does not, however, authorize us to ignore it as trivial.

This undecidability between what we might call a performative and a constative structure [is] *required* for the production of the desired effect. . . . The signature [on the Declaration] invents the signatory [the name and authority of the Good People] . . . in a sort of fabulous retroactivity. . . . This fabulous event [is only] . . . possible in truth by a present’s inadequation to itself. . . . The constitution . . . guarantees . . . your passport . . . marriages . . . checks. . . . [by] the signature of each American citizen [which] depends, in fact and by right, upon this indispensable confusion. . . . [The Good People] sign in the name of [“the laws of Nature and of Nature’s God”] . . . and therefore all the play that must insist on presenting performative utterances *as* constative.<sup>26</sup>

This confusion guarantees the identity of the national agent—passport, marriage, check. But this originary “hypocrisy,” entailing the involvement of the laws of nature, guarantees/produces the national agent *as such*, who is also the guarantor of the guarantee. The first is seen in the constative/performative in “every Turk is *born* free” (1924). The second is seen in the guarantor/guaranteed in the self-inadequate present of “the system is based on the principle that the people personally and effectively *direct* their own destinies” (1921).

If the series of Turkish constitutions are read with Derrida’s extraordinary attention to detail, we would, again and again, trace this disclosure/effacement of the trace, at the origin of the founding of modern constitutions. Undecidability secures the agent’s ability to decide as a free national agent.

Why do we need to remember this? So that the possibility of agency is not taken to guarantee the self-proximity of the subject; and national or ethnic *identity* do not become fetishized. Nationalism in the context of metropolitan countries can then become the justification for the founding racist ideology of imperialism and neo-colonialism, “the end of history,” declaring “the triumph of the West,” predicated upon being “turned off

25. Jacques Derrida, *otobiographies: l’enseignement de Nietzsche et la politique du nom propre* (Paris: Galilee, 1984), 23.

26. Derrida, *otobiographies*, 21-25. I have rearranged the word order slightly in order to make coherent extrapolations.

by [the] nihilistic idea of what literature was all about [taught by] Roland Barthes and Jacques Derrida.”<sup>27</sup> In the context of the Third World, if the undecidable and slippery founding of agency is seen to be the birth of a new man/woman, the act of the founding, celebrating *political* independence, comes to be seen as an end in itself. Responding to the U.S. reception of his *Islam and Capitalism*, so staunch a Marxist as Maxime Rodinson is obliged to renounce both economics as the last instance and access to scientific truth:

I merely hold that the translation of the popular will into political decisions requires something else than free parliamentary elections, quite other arrangements differing according to the social condition of the population under consideration. . . . My struggle [is] precisely against faith in the panacea of political independence. That does not mean that I scorn political independence, that I renounce my support of the struggle for decolonization. . . . Just as it is important to perceive, behind the scenes in the representative institutions, the reality of the forces of economic pressure, so too is it necessary to understand that a world of independent political units, each with an equal voice at the U.N., even endowed with representative institutions, does not, in itself, make a “free world.” That is undoubtedly obvious to the most naïve observer of the international political game, but the ideology that sacralizes political institutions impedes acknowledgement of all the consequences. . . . The whole truth is no more accessible to man than full freedom or complete harmony of social relations.<sup>28</sup>

In the mid-sixties, writing for a French rather than U.S. audience, Rodinson had told his readers that “there remain[ed] a very large area of the field of learning that can and must be explored with . . . philosophical presuppositions provisionally suspended . . . and the positivist procedure is the one to follow.”<sup>29</sup> The American Preface, quoted above, shows the suspension of assurances of positivism as well. Activist thinkers of the Third or any world, not merely anxious “to shine in some salon, lecture-theatre or meeting-hall,” repeatedly come up against the call to suspension when questions of originary justification for labels of identity confront them.<sup>30</sup>

Having acknowledged that basing collective practice on the ground of identity begs the question in the very house of self-evidence, how do we

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27. James Atlas, “What is Fukuyama Saying?,” *New York Times*, 22 Oct. 1989, Sunday Magazine, 38-39.

28. Rodinson, *Islam*, xxiii, xxv, xxvi.

29. Rodinson, *Islam*, xv.

30. Rodinson, *Islam*, 2. I write these words in some bitterness because my calls to scrupulous suspension at one point gave rise to a bizarre document: Biodun Jeyifo and anonymous colleague, “‘Race’ and the Pitfalls of Ventriloquial Deconstruction: Gayatri Chakravorty Spivak’s Regressive Monologue on Africa,” unpublished but very widely circulated by the authors.

re-open the distinction between the U.S. and Turkish cases? It is in the area of the origin from which the new nation separates itself, an issue, as we have noticed in Professor Ackerman's discussion, that is not without a certain importance: "Under the circumstances it was necessary to efface another signature of state by 'dissolving' the lines of colonial paternity or maternity."<sup>31</sup> As the Declaration states: "it becomes necessary for one people to dissolve the political bands which have connected them with another." It is here that the laws of God and Nature provide the necessary last instance that can accommodate "the hypocrisy indispensable to a politico-militaro-economic coup de force."<sup>32</sup> And stand behind the Constitution as pre-text.

Like the U.S. Declaration, what the Turkish Constitution separates itself from is its own past, or rather it secures a separation already inaugurated by the Ottoman Constitution of 1876. In terms of the access to agency, the earlier constitution had not yet fully coded a *coup* (blow) as a *coupure* (cut). The irreducible performative/constative confusion sustaining Art. 3 (1924): "sovereignty belongs *unconditionally* to the nation," depends on the abolition of the Caliphate.

And this is not declared in the name of the Good People of Turkey; merely in the unwritten name of Europe. The "national" is already catachrestic, "wrested from its proper meaning" (OED).<sup>33</sup>

It might therefore be politically useful to consider whether Euro-American origins are also not catachrestic, secured by *other* places; to consider, in Derrida's words, "the politics of the proper name used as the last instance." God/Nature in the case of the United States, Europe in the case of Turkey. The two must be read side by side. Turkey is especially interesting because it is not a case of decolonization, but rather an obligatory self-deimperialization. For a transnational study of culture, the "comparative" gesture cannot be docketed in a comfortable academic sub-division of labor; but rather, the inexhaustible taxonomy of catachrestes—*how* a constitution begs the question of origin—must at least be invoked at every step.<sup>34</sup> Culture Studies must therefore constantly risk (though not flaunt) a loss of specialism.

### III

In a provocative sentence in "The Laugh of the Medusa," Helene Cixous writes, "as subject *for* history, woman always occurs simultaneously

31. Derrida, *otobiographies*, 24.

32. Derrida, *otobiographies*, 27.

33. For the argument that the political claims of decolonized nations are catachrestic, see Spivak, "Poststructuralism, Postcoloniality, Marginality, and Value," in *Literary Theory Today*, ed. Peter Collier and Helga Geyer-Ryan (Cambridge: Polity Press, forthcoming).

34. For a somewhat schematic view on this from the disciplinary perspective of history, see Charles Bright and Michael Gyer, "For a Unified History of the World in the Twentieth Century," *Radical History Review* 39 (1987): 69-91.

in several places.”<sup>35</sup> I have discussed elsewhere the implications of such a statement for feminism in decolonization.<sup>36</sup> To summarize here, let me propose that Cixous is not speaking of woman as world-historical subject, or as subject *of* history. In her view and mine all historicizing is narrativizing—putting in the form of a story. (This view does not assert that truth is fiction in the narrow sense.) Cixous is speaking, I think, of how woman must be presupposed so that she would be appropriate for a new story—a new narrativizing. Cixous is fortunate that the history of the French language offers her this double sense in the ordinary use of the word *histoire*. “Herstory,” billed as tendentious, has not caught on.

Let us hold on to the idea of an alternative history/story *for* which woman must be newly imagined as pluralized subject. The new story will make visible what, in the old figurations of the pluralized woman (as mother, wife, sister, daughter, widow, female chattel, whore, exceptional stateswoman or public woman with femininity re-coded, and so on) was excluded as historical narratives were shored up, in many different ways, with the representative man as its subject. (The Turkish or Indian accounts given above, for example, would have to be broken up if women were the subject *for* history.)<sup>37</sup>

In this context, we *are* speaking of a subject, broader than the intending person, with outlines that are overdetermined by the many networks (psycho-sexual, familial, political, legal—to *name* a few) in which it puts itself together.

The notion of “woman’s history” as one of the levers for deconstructing the discipline of history is one of immense theoretical and practical interest. The scope of the venture is far-reaching, and can be surmised through the more empirical work of, say, the History Workshop in Britain, *Signs* in the U.S., and the feminist contingent of the Subaltern Studies Collective in India. In this paper I am concerned with the legitimation of the normative and privative idiom of constitutions. I must therefore restrain my interest in plurality and recall my earlier remark: “the constitutional agent is apart from either the subject or from the universal-in-singular ethical agent.”

What I am now going to write can easily be misread as “postmodern modesties replac[ing] Marxist certitudes,” as anti-libertarian anti-feminist irresponsible dream talk.<sup>38</sup> This is the risk that one must run in order to

35. Helene Cixous, “The Laugh of Medusa,” in *New French Feminisms*, ed. Elaine Marks and Isabelle de Courtivron (Amherst: Univ. of Massachusetts Press, 1980), 252.

36. “French Feminism in French Philosophy; in Decolonization,” in *Feminists Theorize the Political*, ed. Joan Scott and Judith Butler (forthcoming).

37. See Aysegül Baykan, “Modernism, Fundamentalism and the Women in Between” (Paper presented at the 1989 ASA Conference); and Spivak, “Woman in Difference: Mahasweta Devi’s ‘Douloti the Beautiful,’” (Paper presented at Nationalisms and Sexuality Conference, Harvard Univ., 16-18 June 1989).

38. Jeffrey C. Goldfarb, “The Age of Dissent: Democracy Crashes Party,” *Village Voice Literary Supplement* (October, 1989).

understand how much more complicated it is to realize the responsibility of playing with or working with fire than to pretend that what gives light and warmth does not also destroy.

U.S. women must of course use the Constitution to guarantee the possibility of securing the paralogical legitimation of what is defined as “women’s rights,” because “abortion in the U.S. hovers tenuously in a repressive political climate and a dominant antifeminist culture.”<sup>39</sup> Yet, as the writer of these important words, Rosalind Petchesky rightly insists,

to deny that there will always be a residual conflict between . . . the idea of concrete individuality, or subjective reality—and that of a social and socially imposed morality of reproduction seems not only naive but dismissive of an important value.<sup>40</sup>

I am pointing at the confusion underlying the conflict and suggesting that, *residually*, we must remember while we are in struggle that, just as a computer codes language production into rationally manipulable bits on the model of artificial intelligence(s), so also must constitutional law code the woman’s pre-supposed self-proximity to her body into abstractions manipulable on the model of simulated person(s). What is compromised or effaced by this is the affective-cognitive-political-social-historical plurality (to *name* a few strands) of “woman” seized as a springboard for a critique of homogenizing reason. Woman’s involvement with the Constitution is thus not an unquestioned teleological good but a negotiation with enabling violence. Perhaps this will make clear the structural import of the post-colonial negotiation with the originary discourses of constitutionality.

If we present the urgency of the negotiation as an unquestioned teleological good, we disavow the fact that the best and the worst in the history of the Feminist movement also entail capitalism and imperialism. In this divided terrain, as woman is normalized into the discursive constitution (both small *and* large C) of “We the People,” through struggle over both the instruments that Professor Ackerman helps us to understand anew, *both*, that is to say, “transformative opinions” *and* “constitutional amendments,” both *Roe v. Wade and* the ERA, how are we to deal with this defining of ourselves into part of a General Will by way of articles of “foreign”—that is to say gender-alienated—manufacture? The negotiative precariousness of the enterprise comes particularly clear if we notice that the issue of reproductive rights is edging into constitutional rationality by way of the most public (constitutional) framing of the area marked “pri-

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39. Rosalind Pollack Petchesky, *Abortion and Woman’s Choice: the State, Sexuality, and Reproductive Freedom* (London: Verso, 1986), vi.

40. Petchesky, *Abortion*, 395.

vate.”<sup>41</sup> This is indeed a precious simulation of “privacy” in the narrow sense that can never be adequate to the area where the very notion of privacy is contested in the most general sense. To identify the two is to confuse the subject with the agent by way of a pragmatic notion of the person. As if, after a constitutional victory, there is nothing left to do but to protect the right and train more lawyers. The present of the subject is not adequate to itself. The agent in its constitution both effaces and discloses it.

By contrast, I am suggesting that U.S. women, if they are attentive to the importance of frame-narratives, are in a unique and privileged position to continue a *persistent* critique of mere apologists for their Constitution, even as they use its instruments to secure entry into its liberating purview. Favorite sons and daughters who refuse to sanctify their father’s house have their uses. Persistently to critique a structure that one cannot not (wish to) inhabit is the deconstructive stance.

#### IV

I have given equal time to Professor Ackerman’s new telling of the U.S. constitutional narrative on the one hand, and, on the other, to the two frame discourses. I say this in conclusion because I have become accustomed to the usual benevolent universalist dodge: the Third World (obvious phrase) and women are of course very important issues, but they are not relevant to the topic at hand, and would distract from the seriousness of the debates intrinsic to it. A Transnational Culture Studies would parry that dodge every time.

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41. The Fourteenth Amendment offers the most hospitable text for the insertion of reproductive rights into the Constitution. The rational and abstract formula that can guarantee “privacy” is: “Nor shall any State deprive any person of . . . liberty . . . without due process of law.” Petchesky’s impressive suggestion, that abortion be re-territorialized from “right to privacy” to “social need” is crucial as a displacement of the right to control reproduction, still within the code. For a recent text which provides documentary access to a good deal of the literature on reproductive ethics and law see Zillah Eisenstein, *The Female Body and the Law* (Berkeley: Univ. of California Press, 1988).



