A Summary of *Frames of War* (Butler) and *Force of Law* (Derrida)

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In this short paper, I will summarize two texts that are closely related to the questions of law, justice and authority. First, I will discuss the introduction and the first chapter of Judith Butler’s *Frames of War* [Butler, 2009, pp. 1–62] where she introduces the questions of the precariousness and grievability of life in times of war. Second, I will talk about Derrida’s notions of law and justice as he puts them forward in his famous essay: *Force of Law: The “Mystical Foundation of Authority”* [Derrida, 1992, pp. 3–29].

1 *Frames of War* by Judith Butler

In the introduction to her book, Judith Butler [Butler, 2009, pp. 1–32] tries to expose the dynamics that operate in the apprehension of lives. She asks the question: How is a life conceived as a life?

If certain lives do not qualify as lives or are, from the start, not conceivable as lives within certain epistemological frames, then these lives are never lived nor lost in the full sense. (p. 1)

How can we apprehend a life as being precarious? What Butler tries to achieve in her introduction is to show how that question brings us to a collective view of

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*Introduction and chapter 1.
†pp. 3–29
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precariousness. Precariousness is inherent to the human condition. She argues for a “more inclusive and egalitarian way of recognizing precariousness” that should “take form as concrete social policy regarding such issues as shelter, work, food, medical care, and legal status”. (p. 13)

The notion of interdependency is implicit to that of precariousness because it “implies living socially, that is, the fact that one’s life is always in some sense in the hands of the other.” (p. 14) Grievability is intimately linked to precariousness. It precedes it, in fact, it “makes possible the apprehension of precarious life” (p. 15). A life that isn’t worth grieving (if and when it ends) is not even considered a life (although it might be considered as a living being) so it can’t be considered to be precarious. In other words, “grievability is a presupposition for the life that matters.” (p. 14)

Butler concludes her introduction by promoting a collective conception of precariousness rather than an individual one:

Thus, the conclusion is not that everything that can die or is subject to destruction (i.e., all life processes) imposes an obligation to preserve life. But an obligation does emerge from the fact that we are, as it were, social beings from the start, dependent on what is outside ourselves, on others, on institutions, and on sustained and sustainable environments, and so are, in this sense, precarious. (p. 23)

In her first chapter, the author investigates this question of the “we” in the light of current conflict. She is especially interested in the “differential distribution of public grieving” (p. 38) after the attacks of 9/11. The US nationalism that was reinforced by these attacks is “producing and sustaining a certain version of the subject” that one in which is seen as “impermeable […] protected permanently against incursion and […] radically invulnerable to attack” (p. 47).

So, one way of posing the question of who ”we” are in these times of war is by asking whose lives are considered valuable, whose lives are mourned, and whose lives are considered ungrievable. We might think of war as dividing populations into those who are grievable and those who are not. An ungrievable life is one that cannot be mourned because it has never lived, that is, it has never counted as a life at all. (p. 38)¹

¹Emphasis is mine. – S. A.
2 *Force of Law* by Jacques Derrida

The main point that Jacques Derrida wishes to establish in his 1992 essay *Force of Law: The “Mystical Foundation of Authority”* is that law – *droit* – is the result of an act of violence whose function is for the sovereign power to exercise its authority, at the moment of inserting the law into society. This authority is by no means *just* nor *unjust* but rather, according to Montaigne, it rests on a “mystical foundation”:

> “Or les loix,”, he says, “se maintiennent en crédit, non parce qu’elles sont justes, mais parce qu’elles sont loix: c’est le fondement mystique de leur autorité, elles n’en ont point d’autres. Quiconque leur obéit parce qu’elles sont justes, ne leur obéit pas justement par où il doit” (p. 12)

In other words, we obey laws “not because they are just but because they have authority.” (p. 12) One straightforward to understand how law and justice are so different is by pointing out the impossibility to find a single example of a universally just law. How just is a law that says, for instance, that whoever commits murder should be put in jail for 20 years? Is it always just? Or always unjust? Doesn’t it depend on each case and on interpretation?

According to Derrida, there is thus an “unstable distinction between justice and *droit*” (p. 22) which is the main difficulty in analyzing these concepts.

Everything would still be simple if this distinction between justice and *droit* were a true distinction, an opposition show functioning was logically regulated and permitted mastery. But it turns out that *droit* claims to exercise itself in the name of justice and that justice is required to establish itself in the name of a law that must be “enforced”. Deconstruction always finds itself between these two poles. (p. 22)

References
