
INTRODUCTION: (POST)MODERN LEGAL STUDIES AS (CRITICAL) CULTURAL STUDIES

JERRY LEONARD

...because the political agenda of theory is not to legitimize one meaning over all others but to interrogate the very institutional bases of the production of meaning, whether multiple or singular. To ask, in other words, not which meaning is most legitimate, but what makes possible this legitimation; to ask how the currently privileged anchor of all meaning—the literary or legal text—came to be legitimated in the first place; to ask not that more texts should be thus legitimated (a reformist project) but that this apparatus of legitimation itself be dismantled.

—Madhava Prasad¹

This is not a book. After Blanchot, if the “book” is understood “as repository and receptacle of knowledge,”² then *Legal Studies as Cultural Studies* marks *the absence of the book* and the activation of reading *otherwise*. The project of legal studies as cultural studies sets forth a series of intersecting and often conflicting interrogative possibilities more so than firmly settled answers or solutions. And moreover, the issues raised through these pages are *political* through and through, and indeed involve, perhaps most importantly, the theorization of “the political” itself in the (post)modern moment. In a very general sense, as Teresa L. Ebert has recently put it, such writings at once question *why* the existing social order is (un)just “the way it is” and also *why not* order things otherwise. Developing out of the philosophically and politically overlapping arenas of the Conference on Critical Legal Studies (emerging in the United States around 1977) and Contemporary Cultural Studies (emerging in Britain with the Birmingham School around the mid-to-late 60s), what is ultimately at stake is the untiring insistence on the possibility of global social justice, and, more specifically, the question of the

role of historical "subjectivity" in the dominant legal and cultural orders.

This is not a book, but rather, following Foucault, three *dossiers* investigating at different levels of analysis the problematics of social justice underlying contemporary critical theory. Whereas the repositive book would have already hailed the reader toward/into the passivizing post of the consumer, the tourist of "knowledge," *Legal Studies as Cultural Studies* offers and foregrounds instead an active, restless and urgent post-(modern) space for the reader as critical *interventionist* and *collaborationist* in the productive historical development of radical intellectual struggles for change. Further on in this introduction I shall return to mark the "ludic" (neo-liberal pluralist) posts of Blanchot and Foucault, with which I opened this text, in partisan (committed and collectivist) rather than merely eclectic terms.

What is called "cultural studies" today is first of all not a "given" or stable domain of activities and inquiries but rather a highly contested field of questioning and theorizing through which a broad range of conflicting visions of social justice get elaborated.³ From this general conceptualization of contemporary cultural studies as a social arena in which, to paraphrase Marx, individuals become conscious of a range of collective conflicts over the *just* and "fight it out" at the level of meanings, I take the position that a critical, rigorously interrogative approach to law and legal institutions must play a key role. Thus *Legal Studies as Cultural Studies* is put forward here as an advocacy of the integrative, globally inclusive commitments of Critical Legal Studies⁴ and Contemporary Cultural Studies⁵ toward the development in theory and/as practice of an economically and politically fair, just and publicly accountable organization of social space, relations and resources. The most general goal of this project, then, is to contribute to the construction and legitimacy of a public forum in which cultural studies may be elaborated as a broad-ranging contestation of (in)justice under the historical limits and contradictions of transnational capitalist patriarchy and (post)modern culture.

While the general agenda here is to in a certain sense produce an open(ing) space for the contestation of cultural studies as an intervention in the discourses of world justice, this formulation itself soon becomes intellectually unproductive

insofar as it tends to suggest a vacuous "anything goes" pluralism *under the very banner of the idea of "contestation."*⁶ In other words, while it does help I think to frame cultural studies as an inquiry into the conflictedness of "justice" in the contemporary world, it is necessary to go further in registering somewhat more precisely the lines of theoretical battle traversing cultural studies. I would now like to move in this direction by offering very schematic outlines of three broad approaches to contemporary cultural studies. I shall designate them, first, "Experiential" Cultural Studies; second, "Textual" Cultural Studies; and third, "Critical" Cultural Studies. As just one further preface to the outlines, I should point out that "culture" here designates exclusively neither the "high Culture" of bourgeois "Fine Arts" nor the "popular culture" of, for instance, MTV, Madonna, reruns of *The Love Boat* or *Gilligan's Island* and so forth. "Culture" in cultural studies, rather, conceptually encompasses both of (and more than) these sorts of "high"/"low" categories by staking out the collective ensemble of artifacts, practices, and spaces enmeshed in the production and dissemination of *meanings* and *knowledges*. Culture, in short, is anywhere "the real" is constructed and made sense of, and the different approaches to cultural studies aim in differing ways to account for that "sense" of what is, or what can count as, "real." (Post)modern cultural studies intervenes in the historical and social intelligibilities of *reality* in a world in which "reality" appears ("makes sense") quite differently depending upon the subject's position along the material social matrices of race, gender, sexuality, and class.

"Experiential" Cultural Studies and its approach to cultural meaningfulness may generally be formulated as follows: Experiential Cultural Studies "affirms" the many, highly variegated ways in which meanings emerge for individuals through their direct, "sensuous" interactions ("experiences") with the world of things and others: This is a study, a writing, a reading, or an affirmative "recounting" which fundamentally addresses the question of what is "real"—and this frame of address is most often put forward by or on behalf of those who have historically suffered various kinds of oppression and exploitation and who have, as well, been denied the possibility of having their oppressions articulated in public—i.e., having them "known." Experiential Cultural Studies gives "voice" to such experiences or otherwise provides something of a "window" on that reality as a step toward changing it.

Following such relatively recent events as the videotaped police beating of Rodney King in Los Angeles, California, or the sheer refusal of police in Milwaukee, Wisconsin to take seriously the bizarre goings-on around the residence of Jeffrey Dahmer—until it was far too late—the *politics* of the “public” ostensibly “served and protected” by the police has become an urgent site of contestation and resistance: an *Other* public’s collective realization of injustice which was an essential factor in the south-central L.A. uprisings emerging in response to the King “incident.” By late September of 1993, however, Ted Koppel could confidently open his *Nightline* broadcast to millions of Americans by saying that the health and welfare of (white) policemen recently sentenced to prison had become a real question of “the principles of justice” because of the daily violences they were subject to amidst the “general” prison population. Again here the political anxiety and the politics of knowledge fueling Koppel’s “report” is that the health and welfare of prisoners only *really* becomes a “principle of justice” when the general conditions of prison life “really” touch corrupt white policemen, while the daily historical “experiences” of dehumanization for the “general population” of black inmates can be regularly and routinely ignored. The wider political and social meaning of “minority” here is cynically reversed in order to “serve and protect” even the embarrassingly crude “fall guys” of the dominant social interests.

In the very opening moves of Steven Connor’s book *Post-modernist Culture: An Introduction to Theories of the Contemporary* (1989), Connor offers an eloquent articulation of the Experientialist stance, but also going further to critically suggest its limits in the complex division and privileging of “experience” over and against “knowledge”:

The difficulties of knowing the contemporary are well known. Knowledge, it is often claimed, can only be gained and enjoyed about what is in some sense over and done with. The claim to know the contemporary is therefore often seen as a kind of conceptual violence, a fixing of the fluid and formless energies of the urgently (but tenuously) present *now* into a knowable and speakable form, by fundamental and irrevocable acts of critical choosing. This formulation rests upon a sense of the inherent division between experience and knowledge, a belief that, when we experience life, we can only partially understand it, and when we try to understand life, we are no longer really experiencing it. According to this model, knowledge is always doomed to arrive too late on the scene of experience.

Much of the critical and theoretical work in philosophy and the social sciences over the last twenty or so years gives us reason to suspect this division, reason to wonder whether knowledge and experience may not be joined in a much more complex continuum. It may be that experience is always, if not actually determined, then at least interpreted in advance by the various structures of understanding and interpretation which hold at particular moments in particular societies, and different regions of those societies. Indeed, the very relationship in which experience and knowledge are taken to stand may also be a reflex of such structures of knowledge and understanding. From this it would follow that our present way of conceiving the opposition between experience and knowledge as (for example) one between transience and fixity, itself has its origin and history in particular knowledge structures.⁷

In a way which is quite pertinent to the present volume, the "liberatory" impulse of the Experientialist position lies behind the G.I.P. (*Groupe d'information de prisons*) project initiated by Foucault. In the "conversation" between Foucault and Deleuze, "Intellectuals and Power," Deleuze underscores their Central objective "to create conditions that permit the prisoners themselves to speak."⁸ In the present collection, variously articulated elements of Experiential Cultural Studies may be traced through the texts of Marie Ashe, David S. Caudill, Eugene D. Genovese, and Nancy Fraser. Jerry Leonard's text also examines in detail Foucault's genealogical project.

I indicated above that the different modes of cultural studies all in one way or another produce (and, on a certain level, assume) differing "accounts" of the existence and circulation of meanings in culture. Whereas Experiential Cultural Studies takes account of "what" kinds of truths-as-"experiences" have been denied and silenced throughout history, "Textual" Cultural Studies transforms the question of "what" (is left out) into, as Jane Gallop puts it, a highly "complexifying"⁹ account of *how* various "other" truths are systematically relegated to the spaces of cultural (non)sense which Derrida has powerfully articulated with the notion of "margins"—and, conversely, how one may read otherwise *from* the margins. Textual Cultural Studies, through "readings" and re-writings of texts of culture, microscopically examines (or more precisely, *analyzes*) "how" various potentials of meaningfulness or signification are repressed and kept tenuously in abeyance within the dominant patterns of the "taken for granted," the meanings which are made to seem

"obvious" and unquestionable (and thus unalterable) precisely by the drive of "commonsensual" desire (common sense/consent) to "forget" whatever it is not, what it lacks, and yet exactly what it needs in order to secure and maintain the kind of imaginary "sense" which Lacan terms "*méconnaissance*": the plenitude of ("self")centeredness operative in various notions of "individualism" all the way up from Descartes and through Sartrean existentialism.

Whether the decentering of the metaphysical self, particularly in the historical moment of a globally "dispersing" capitalism, constitutes an "oppositional" modality, however, is still a very serious site of disagreement. The question becomes the historical one of what kind of "self" is subject to decentering, and hence the role of decentering as a contestation of social inequalities. Long before Derrida signaled the era of deconstruction, Marx clearly understood that the working class as a whole and every individual of that class has already been materially "decentered"—"alienated"—from effective collective control of labor and the products of labor. Thus Marx and Engels in *The Communist Manifesto*, while in a certain sense calling for the internationally transformative "deconstruction" of capitalism ("from below"), do *not* at the same time call for the "decentering" of the revolutionary proletariat: on the contrary, they emphatically conclude the *Manifesto* with the call for worldwide solidarity among the diversely constituted working class. "WORKERS OF THE WORLD, UNITE!"

Textual Cultural Studies, in any event, reads/writes against the grains of the dominant in order to activate the Nietzschean *ressentiment*, the resistance offered by the sense of "counter-memory" in Foucault, and the "other" histories of domination articulated through the Subaltern Studies project.¹⁰ In her translator's introduction to Derrida's *Dissemination* (1981), Barbara Johnson offers the following elaboration of the Textual project:

Deconstruction is not a form of textual vandalism designed to prove that meaning is impossible. In fact, the word "deconstruction" is closely related not to the word "destruction" but to the word "analysis," which etymologically means "to undo"—a virtual synonym for "to de-construct." The deconstruction of a text does not proceed by random doubt or generalized skepticism, but by the careful teasing out of warring forces of signification *within the text itself*. If anything is destroyed in a deconstructive reading, it is not meaning but the claim to

unequivocal domination of one mode of signifying over another. This, of course, implies that a text signifies in more than one way, and to varying degrees of explicitness. Sometimes the discrepancy is produced...by a double-edged word, which serves as a hinge that both articulates and breaks open the explicit statement being made. Sometimes it is engendered when the figurative level of a statement is at odds with the literal level. And sometimes it occurs when the so-called starting point of an argument is based on presuppositions that render its conclusions problematic or circular.

Derrida [in *Of Grammatology*] defines his reading strategy as follows:

The reading must always aim at a certain relationship, unperceived by the writer, between what he commands and what he does not command of the language that he uses. This relationship is not a certain quantitative distribution of shadow and light, of weakness or of force, but a signifying structure that the critical reading should *produce*.

In other words [Johnson continues], the deconstructive reading does not point out the flaws or weaknesses or stupidities of an author, but the *necessity* with which what he *does* see is systematically related to what he does *not* see.¹¹

In the present volume, Textual Cultural Studies is most emblematically put forth in the writings of Gayatri Chakravorty Spivak and Drucilla Cornell, and also through the texts of Costas Douzinas and Ronnie Warrington, and Peter Goodrich (as well as, again, Ashe's feminist poststructuralism). The most directly sustained contestation of "textualism" is set out in this volume by Teresa Ebert (and to a lesser extent by Leonard in the critique of Foucauldian genealogy).

As Johnson's commentary on deconstruction makes clear, Textual Cultural Studies mobilizes a form of "critique" which is not to be confused with the moralistics of "criticism" ("flaws" and "stupidities" of individual authors). As critique, Textual "close readings" inquire into the possible presuppositions—the "unsaid"—at the foundations of thought systems: an investigation of presuppositions, in other words, aims at bringing such a disturbing degree of interrogative pressure to bear on the assumed "hinges" of established meanings and values as to inaugurate scenes of "crisis" at which, to use a self-consciously figurative language, the "bottom drops out" and what were once the apparently stable "grounds" of coherence begin to rumble

and shift and become “in-determinate” according to “how” the discourses of such grounds are *read* by differing readers and in different institutional contexts.

It is in the reading of such social and institutional “contexts”—within which “texts” are themselves read—that the very meaning of “critique” itself becomes unstable and contestatory. In his *Deconstruction: Theory and Practice* (1982), Christopher Norris establishes most incisively the theoretical terrain for the battle over “critique.” “Only in following through the logic of deconstruction,” Norris writes, “rather than meeting its challenge halfway, can thought escape this imprisonment by the metaphors of its own frozen discourse. Nietzsche remains at the last a disturbing threat to the ‘taken-for-granted’ rhetoric of Marxist theory.”¹² The call to radicality in Norris’ advocacy of a mode of Textual Cultural Studies which undermines “frozen” or entrenched discursive formations is one shared by “Critical” Cultural Studies. For Critical Cultural Studies, however, the “critique” of the *conditions of possibility* of the “frozen-ness” of commonsensical or automatistic thought structures is pursued most vigorously not only at the level of “discourses,” “metaphors,” or “rhetorical” features in and of themselves—at the level of their immanent “within-nesses”; rather, the “critique” produced by the reading/writing practices of Critical Cultural Studies becomes in a certain sense trans-textual (as well as trans-experiential) by aiming to situate and theorize “texts” within precise historical and social formations.

Just as Textual Cultural Studies shifts from the Experiential question of “what” constitutes “the real” into the analysis of “how” the real is discursively fabricated and susceptible of deconstruction (a teasingly incessant “raveling” and “unraveling”) through the rhetorical playfulness and figurality of counter metaphors, Critical Cultural Studies pressures the very “taken-for-grantedness” of “metaphoricity” itself (the historicizing Marx contra Norris’s rhetoricizing Nietzsche) by examining the question of why, under a given set of historical conditions of existence, certain meanings are put into radical question—why, in short, “frozen” or reified signs of “knowledge” may operate in (un)questionably “obvious” ways for political and economic reasons which can be demystified and grasped historically rather than “naturally.”¹³ The “critique” mobilized by Critical Cultural Studies is lucidly set out in Marx’s 1859 preface to *A Contribution to the Critique of Political Economy*. Here Marx writes:

The guiding principle of my studies can be summarized as follows. In the social production of their existence, men inevitably enter into definite relations, which are independent of their will, namely relations of production appropriate to a given stage in the development of their material forces of production. The totality of these relations of production constitutes the economic structure of society, the real foundation, on which arises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the general process of social, political and intellectual life. *It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness.* At a certain stage of development, the material productive forces of society come into conflict with the existing relations of production or—this merely expresses the same thing in legal terms—with the property relations within the framework of which they have operated hitherto. From forms of development of the productive forces these relations turn into their fetters. Then begins an era of social revolution. *The changes in the economic foundation lead sooner or later to the transformation of the whole immense superstructure. In studying such transformations it is always necessary to distinguish between the material transformation of the economic conditions of production, which can be determined with the precision of natural science, and the legal, political, religious, artistic or philosophic—in short, ideological forms in which men become conscious of this conflict and fight it out.* Just as one does not judge an individual by what he thinks about himself, so one cannot judge such a period of transformation by its consciousness, but, on the contrary, this consciousness must be explained from the contradictions of material life, from the conflict existing between the social forces of production and the relations of production. No social order is ever destroyed before all the productive forces for which it is sufficient have been developed, and new superior relations of production never replace older ones before the material conditions for their existence have matured within the framework of the old society. Mankind thus inevitably sets itself only such tasks as it is able to solve, since closer examination will always show that the problem itself arises only when the material conditions for its solution are already present or at least in the course of formation....The bourgeois mode of production is the last antagonistic form of the social process of production—antagonistic not in the sense of individual antagonisms but of an antagonism that emanates from the individuals' social conditions of existence—but the productive forces developing

within bourgeois society create also the material conditions for a solution of this antagonism. The prehistory of human society accordingly closes with this social formation.¹⁵

Still even in this formulation, the recurrent articulation of the “ideological forms in which *men* become conscious” of the social conflict over justice itself requires “fighting it out”: fighting it out over the reach and scope of “ideology” and hence ideology critique, and even over the very conceptual terrain of “the social” at stake in such struggles. This “becoming conscious,” in other words, calls to the front precisely the question of “the subject” and its political “significance” in critical theory. As Maria Mies indicates in *Patriarchy and Accumulation on a World Scale* (1986), significantly quoting from Roswitha Leukert’s unpublished text, “Weibliche Sinnlichkeit”: “The beginning of human history is primarily not a problem of fixing a certain date, but rather that of finding a materialist concept of man [the human being, the subject] and history.”¹⁵

In the (post)modern cultural moment of late capitalism, the work of the critic becomes trans-disciplinary and global. Ernest Mandel writes in *Late Capitalism*: “The real idol of late capitalism is...the ‘specialist’ who is blind to any overall context.”¹⁶ Clearly it is the “political” (genealogical) Foucault, the champion of the “specific” intellectual, who becomes a main oppositional representative in relation to the very idea of a globally systemic materialist critique of existing modes of oppression. Derrida’s classic formulation, “There is nothing outside the text,” as well articulates a mode of self-enclosed textual “specialism” which, ideologically, blocks an explanatory and transformative examination of the material “overall context.” Under the pressure of the deconstructive “war on totality”¹⁷ throughout the 70s and 80s, the framing question from the “New Left” *Social Text* Collective—*Universal Abandon?*¹⁸—is deeply symptomatic of the immense impact of deconstructive discourses in the contemporary West, as well as, again, the “subtle” philosophical way in which the discourses of deconstruction guard against a global-systemic materialist critique of (post)modern capitalist patriarchy. As already suggested, in the present collection Teresa Ebert’s text directly engages these issues, punctuating the volume’s conclusion by writing a transformative politics back into the “post” of (post)modern intelligibilities of resistance.

Although, as I established in the opening, this project draws upon Blanchot’s notion of “absenting the book” and Foucault’s

notion of the "dossier," it is important in my view to not merely "use" such work as if such use were not, at this historical moment, a situated/situating use—a productive use, in other words, which differs from and contests such concepts of (re)ordering which have themselves emerged with the "New World Order." For Blanchot "the absence of the book" in fact constitutes nothing less than the arche-deconstructive maneuver in which the "book" (the Holy Bible as the exemplary Book of the Law of the Father) signifies the very possibility/impossibility of "concept" and "order" in conventional sense. By writing an "absence" into the book, Blanchot deconstructively marks the apocalypse of any such apparently stable, monological, unitary or undivided "concept." Traditional Law and Order, in other words, is internally subverted by the incessantly "slipping" law of the signifier: in Derrida's formulation, the law of *différance* according to which the order of signification is never the "same" as itself but constantly differing in space and deferring in time. The essential point, however, is that the deconstruction of the Law of the Father (the orthodox book) produces not so much the end of "order" altogether, but rather the inauguration of a new, plural, "dissenting" order traversed by the randomness of aleatory "chances" and "risks" at the level of meaningfulness.

Along the same lines, Foucault's "dossier" is at bottom marked by the Nietzschean genealogical sense of "a play of hostile forces" without any necessarily determining point of departure or end: while apparently non-closural, this is in any event a suspiciously naturalizing, panhistorical "will" to power/knowledge. The notion of the dossier is introduced in Foucault's foreword to *I, Pierre Rivière*, one of the first published works growing out of the G.I.P.:

...it was a "dossier," that is to say, a case, an affair, an event that provided the intersection of discourses that differed in origin, form, organization, and function—the discourses of the cantonal judge, the prosecutor, the presiding judge of the assize court, and the Minister of Justice....All of them speak, or appear to be speaking, of one and the same thing;...But in their totality and their variety they form neither a composite work nor an exemplary text, but rather a strange contest, a confrontation, a power relation, a battle among discourses and through discourses. And yet, it cannot simply be described as a single battle; for several separate combats were being fought out at the same time and intersected each other...¹⁹

The essential moment lies here in the subtle "qualificational" tone of: "in their totality and their variety...*several separate* combats were being fought out at the same time..." Foucault displays in this way the infinite "capaciousness" of the genealogist as grand (neo-pluralist) host. As Foucault repeats to his interlocutors from the French journal *Esprit* in 1968, "Now, I am a pluralist...I am a pluralist: the problem which I have set myself is that of the *individualization* of discourses."²⁰ Not only is Foucault anxious in general about "theorizing" a battle over the general intelligibility of "events"; beyond this, he most certainly as well wishes to avoid the accusation of even "describing" a "single" battle "simply," and thus opts precisely for the neo-liberalist heterogenealogical stance of "acknowledging" both the "severalness" as well as the "separateness" of microcombatics.

In the wake of such super-subtlety in Blanchot/Derrida/Foucault/...,today, while displacing "orthodoxy," this stance of the critic has become the new heterodoxy which in the last analysis simply makes it possible for one to say everything, "allow" everything (i.e., be ethically "tolerant"), and thus essentially say nothing at all that anyone "reasonable" could possibly take issue with: the critic as indeterminist, tiptoeing in, around and between every "severally separate" local combat. While the move to point up the dividedness or multiple conflictedness of the signs of culture is a necessary one, clearly my point here is to contest the limits of such a move in its currently institutionalized renarration of liberal pluralism as well as its massively widespread appeal as a basic threshold concession for "inclusion" within neoconservative, ad hoc "coalition building." George Bush perfectly articulated this idea in the slogan, "We want radical reform!", which finds only trivial disagreement from the "new" U.S. President, Bill Clinton. The horror behind "radical reform" is that Bush was not only speaking to America, but the entire world of the "New World Order." The question becomes "radical reform" in whose interests, whose new order?

The "differences" activated through the absenting of the book and the emergence of the dossier, I believe, must urgently be theorized with a sense of their global organization and possible coordinative relations under contemporary racist patriarchal capitalism. This is the sense in which my earlier mapping of differing approaches to cultural studies is not merely "descriptive" or infinitely "capacious." Rather, while producing a map of differences, I do not simply abandon the "concept" of cultural

studies but in fact argue for the global horizon offered by Critical Cultural Studies as a principled materialist inclusion and supersession—not an eclectics—of the discourses of experientiality and textuality.

The three dossiers of this project, then, are all—within as well as between their differing and uneven articulations—scenes of intersection and difference. Beyond Foucault's intimations, however, I maintain that they are not "several separate combats" but rather a series of interrelated—or better, structurally interconnected—discourses which investigate these three main axes: (1) the historical and material positions of the subject; (2) the differentially conflictual operations of the sign; and (3) the political dimensions of contemporary theory in the struggles against injustice. The dossiers constitute the overlapping and often conflictual opening arguments for the "case" of legal studies as cultural studies.

In this introduction I have self-consciously drawn upon materials which are themselves by and large "introductory" or in some sense "exemplary" in nature, thus providing critical pedagogues and readers at least one possible set of texts in relation to which this volume itself may be read. At the end I have also provided an inclusive bibliography of works cited. I have refused "summarizing" the texts, however (or rather I have not "summarized" in the conventional sense), because actively and relentlessly producing the critique-al knowledges of a project such as this is the principal challenge of the partisan readers to whom the (post)modern reader addresses itself.

"Summarizing," of course, goes on all the time in cultural/legal practices—in the classroom, at the seminar table, at conferences, in the courtroom, and so forth. My point, however, is that summary is always already a differentially positioned summary, and it is this (subject) positioning which needs clarification. Thus in this introduction I have sought to foreground the broad discursive movements within which the specific texts of this volume may (arguably, I believe) be located. If this seems a rather rude form of "pigeonholing," it is indeed because I believe "critical" theory—understood even in the most general sense imaginable—demands the taking of a stand, a self-reflexively argued-for intellectual and political positioning; and such a praxis is blatantly defeated through the widespread eclecticism of most "critical scholarship" in contemporary cultural/legal studies.

There is finally a most important sense in which the present collection is not a "book" but rather, through the mediations of signifying practices, a politically and historically symptomatic "ensemble of social relations."²¹ Intervening in the discursive order of the anthology, *Legal Studies as Cultural Studies* symbolically articulates a particular historical configuration of knowledges. It is "plural" but not evenly so; it is a "collection" but not haphazardly so; it is constituted by "differences" but they are not formal but political, not panhistorical but acutely symptomatic of the political economy of knowledge under the pressures and limits of (post)modern capitalist patriarchy.

As the opening epigraph from Madhava Prasad argues, the radical critical (post)modern text (whether an anthology or not) aims at clarifying its decisive and unrelenting opposition to the totality of the status quo by aggressively promoting a radical social critique—a radical social theory—of its enabling conditions, rather than a superficial "celebration" of itself, its "differences," its "utopian impulse" and so forth. In this way the (post)modern reader refuses the dead weight of "books" and instead involves itself actively, consciously and committedly in that which it had always already been involved, if only at a less reflexive level of intelligibility: the politicization of knowledge, and not merely so as to "reform" but to exert as much pressure as possible on the dominant understandings of all social texts.

It is in this sense as well that the cultural function of the anthology itself is put in question. The main issue is not merely that anthologies "say something about" the politics of inclusion/exclusion, about the center and the margin, but moreover that such local (still "bookish") configurations of the politics of representation are themselves symptomatic of and intrinsically connected to far wider configurations of social unrest, conflict, contradictions, and resistance. Because today it is so overwhelmingly clear that Experiential and Textual modes of cultural/legal studies represent the dominant discourses of (post)modernism—at once within and outside of this volume—the decisive question is not simply that of a "better representation" of Critical Cultural Studies (e.g., to make its agendas more "appealing"); on the contrary, it is a question of further and more rigorously clarifying the starkly material reality that Critical Cultural Studies (and its deployment as critical legal studies) "represents" not just another politics of inclusion (a "difference within") but rather a socialist politics of revolution.

Refusing the complacency of the book, then, *Legal Studies as Cultural Studies* in the final instance is a registration of the class struggle in theory. In this way the reader becomes a consciously produced and displayed ensemble of social relations and struggles. The reader signifies not a "utopian impulse" but rather a concrete moment of resistance. *The reader becomes a social critique and a collective indictment.* The determinant question necessarily becomes a "crude" one: the call of neo-bourgeois liberal justice as a multilayered and "immanent" politics of inclusion within the "newly" emerging forms of capitalist patriarchy on a world scale? or rather, revolutionary justice as a multivalent and "transformative" politics of the destruction of global capitalist patriarchy and its replacement by an entirely different historical construction and organization of socialist praxis?

I argue for this kind of reconceptualization of "critical theory" in general, as always already having been involved in such questions and theoretical problematics requiring more and more rigorous clarification in all modes of social praxis: that is, in writing, in pedagogy, in the formation of reading collectives, in local community, national and international forms of organization and service, in short, in "everyday life." This means, as I also argue through the title of this volume, that the radical theorization of the "post" of the subject in her/his historical relationship to "modern" society ("civil-ized" society) and all of the differentially articulated juridical positions of this existing society requires the most demanding, innovative, daring, and relentless investigation and elaboration. This is the kind of theory of (post)modern legal studies as (critical) cultural studies which I advocate and defend.

Contemporary cultural studies is reconceptualized through this collection as a profoundly contested "court," an historical political "trial" of critical knowledges. What is ultimately on trial at the shifting center of these contestations is the subject of justice, the historic means of bringing social justice into the contemporary world through the unity of radical theory and practice. As each dossier demonstrates, such a project involves the sustained interrogation of the conditions of possibility of injustice as it exists in different forms around the world. Taking a difference here with the volume edited by Stephen Greenblatt and Giles Dunn, *Redrawing the Boundaries: The Transformation*

of *English and American Literary Studies* (1992),²² *Legal Studies as Cultural Studies* is not content with "revisionism" and does not seek merely to "redraw" old boundaries in new ways. Instead the project proposes an examination of why and how "boundaries" exist to begin with. Hence the "as" in legal studies as cultural studies is neither interdisciplinary, antidisiplinary, nor postdisciplinary, but trans-disciplinary and bent toward transformations.

I would like to thank a few people whose sustained support for this project helped make it possible: Clay Morgan at SUNY Press, Jack Balkin, Bernard S. Jackson of Deborah Charles Publications in England, Leonard G. Buckle of the American Legal Studies Association and the Program in Law, Policy and Society at Northeastern University, and David Ray Papke, editor of *Legal Studies Forum*. Especially I wish to thank Mas'ud Zavarzadeh and Donald Morton for their critical intellectual support and sustained encouragement for this project and its fundamental development at Syracuse University in the late 80s/early 90s and afterwards.

NOTES

1. Madhava Prasad, "The New (International) Party of Order? Coalition Politics in the (Literary) Academy," *diacritics*, 22.1 (1992): 38.

2. Maurice Blanchot, "The Absence of the Book," in *Deconstruction in Context: Literature and Philosophy*, ed. Mark C. Taylor, Chicago: University of Chicago Press (1986): 382.

3. I do *not* mean to suggest here that there are no "dominant" modes of contemporary cultural studies. There are also quite clearly dominant modes of "critical" legal studies. Broadly speaking, for both cultural studies and critical legal studies, the dominant discursive mode is an eclectic celebration of poststructuralism. Further on in this introduction I directly address this issue.

4. On Critical Legal Studies generally, see the collection edited by Allan C. Hutchinson, *Critical Legal Studies* (Totowa, New Jersey: Rowman & Littlefield Publishers, 1989).

5. On Contemporary Cultural Studies generally, see the volume edited by David Punter, *Introduction to Contemporary Cultural Studies* (London: Longman, 1986). Also see Patrick Brantlinger, *Crusoe's Footprints: Cultural Studies in Britain and America* (New York and London: Routledge, 1990).

6. American neo-liberal academics of "multiculturalism," such as Gerald Graff with the notion of "Teach the Conflicts," have in this way

precisely attempted to recuperate and contain radical theories and pedagogies of critique. See Graff, "Teach the Conflicts," in *The Politics of Liberal Education*, eds. Darryl J. Gless and Barbara Herrnstein Smith (Durham and London: Duke University Press, 1992) 57-74.

7. Steven Connor, *Postmodernist Culture: An Introduction to Theories of the Contemporary* (Oxford and Cambridge: Easil Blackwell, 1989) 3.

8. Michel Foucault, "Intellectuals and power," in *Language, Counter-Memory, Practice: Selected Essays and Interviews*, trans. Donald Bouchard and Sherry Simon, ed. D. Bouchard (Ithaca, New York: Cornell University Press, 1977) 206.

9. See generally Jane Gallop, *Around 1981: American Feminist Literary Criticism* (New York and London: Routledge, 1992).

10. See Ranajit Guha, ed., *Subaltern Studies I: Writings on South Asian History and Society* (Delhi: Oxford University Press, 1982). See also Gayatri Chakravorty Spivak, "Subaltern Studies: Deconstructing Historiography," in *Other Worlds: Essays in Cultural Politics* (New York and London: Routledge, 1988) 197-221.

11. Barbara Johnson, "Translator's Introduction," in Jacques Derrida, *Dissemination*, trans. B. Johnson (London: University of Chicago Press, 1981) xiv-xv, emphasis in original. Johnson is quoting Jacques Derrida, *Of Grammatology*, trans. Gayatri Chakravorty Spivak (Baltimore: Johns Hopkins University Press, 1976) 159, emphasis in original.

12. Christopher Norris, *Deconstruction: Theory and Practice* (London and New York: Methuen, 1982) 89.

13. For a sustained articulation of radical critique-al (post)modern theory, see Mas'ud Zavarzadeh and Donald Morton, *Theory, (Post)Modernity. Opposition: An "Other" Introduction to Literary and Cultural Theory* (Washington, D.C.: Maisonneuve Press, 1991).

14. Karl Marx, *A Contribution to the Critique of Political Economy*, trans. S.W. Ryazanskaya, ed. Maurice Dobb (Moscow: Progress Publishers, 1970) 20-22, emphasis added.

15. As I indicate, this is Maria Mies's quotation as well as translation of Roswitha Leukert's text. See Mies, *Patriarchy and Accumulation of the World Scale: Women in the International Division of Labour* (Atlantic Highlands, New Jersey: Zed Books, 1986) 48. Mies (re)reads "man" as "the human being," and I am (re)reading this further as "the subject" of critical theory in (post)modern cultural studies.

16. Ernest Mandel, *Late Capitalism*, trans. Joris De Bres (London and New York: Verso, 1978) 509, emphasis in original.

17. Jean-Francois Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. Geoff Bennington and Brian Massumi (Minneapolis: University of Minnesota Press, 1984) 82.

18. Andrew Ross, ed., *Universal Abandon? The Politics of Postmodernism* (Minneapolis: University of Minnesota Press, 1988).

19. Michel Foucault, ed., *I, Pierre Rivière, Having Slaughtered My Mother, My Sister, and My Brother...: A Case of Parricide in the 19th Century*, trans. Frank Jelinek (Lincoln and London: University of Nebraska Press, 1975) x.

20. Michel Foucault, "History, Discourse and Discontinuity," trans. Anthony M. Nazzaro, *Salmagundi* 20 (Summer-Fall 1972): 226, emphasis in original.

21. K. Marx, "Theses on Feuerbach," in *The Marx-Engels Reader* (1978) 145.

22. Stephen Greenblatt and Giles Dunn, eds., *Redrawing the Boundaries: The Transformation of English and American Literary Studies* (New York: Modern Language Association Publications, 1992).