

Introduction

Introduction

This book is in part a plea to revive ecstasy as a point of departure in the study of law.¹ Ecstatic subjects—shattered, dispossessed, displaced, and beside themselves—have never disappeared completely from legal or political analysis.² Since the 1970s and 1980s, the subject in ecstasy has been invoked in a number of books and articles, especially in the fields of religion, metaphysics, and literature.³ The idea, however, that ecstasy is, or should be, central to legal structures or legal study is one that has not found proponents for a number of centuries.⁴ I make the case in this book that legal ecstasy is still very much with us, that it remains an effective framework for politics, and that ecstatic subjects—or their off-center, eccentric counterparts—have been key players in the articulation of modern and contemporary political norms. I do so by focusing on what has increasingly been called “disaster law”⁵—defined broadly here as the legal and political structures that appear in the aftermath of crises such as earthquakes, floods, or fires. What I suggest throughout this book is that the dual purposes of disaster law are, first, to make the disaster intelligible by, second, assigning a politically normative function to the subject in ecstasy.

I admit that the subject in ecstasy is a strange place to start a book that is not being written thirty years ago, when discussions of subjectivity were more widespread.⁶ What I propose over the following chapters, however, is that at that moment thirty years ago, there was a potential connection, a possible linkage,

among ecstasy, eccentricity, and the law that could have been made but that was not—an association that was momentarily formulated, but that then unraveled. My starting point in this book, therefore, is that this brief, potential, or possible linkage needs to be rearticulated—especially now that crisis and disaster have become common tropes in contemporary political and legal rhetoric. Over the following pages, I argue that during a disaster or crisis, the law assumes not bounded, distinct, definable subjects, but rather eccentric subjects or subjects beside themselves—subjects in ecstasy. Furthermore, this assumption of legal ecstasy or eccentricity produces not just bodies beside themselves, but also displaced spaces and shattered narratives—the reality associated with what can be represented giving way to a reality associated with what cannot.

That law might deal in ecstatic rather than in bounded subjects—in what cannot be represented rather than in what can—may at first appear paradoxical. One of the most common assumptions in legal studies today is that legal systems, regardless of their ideological bases, both demand and define discrete, unitary, and above all bounded subjects. The rights-bearing individual, for example, is assumed to enter the liberal social contract only after taking on the rational, unitary subjectivity that is citizenship. The state becomes sovereign and thus a state—capable of engaging in international law systems—only when it is recognized to possess distinct boundaries enclosing a definable space.⁷ Even the racialized body that is regulated by shifting, decree-driven totalitarian law is a body capable of being represented and made (sometimes hyperbolically) distinct.⁸ Although a number of scholars have criticized this emphasis on the bounded subject—trying, for example, to preserve the notion of rights while doing away with the categorization and dependency demanded by the social contract,⁹ or highlighting the racism that underlies the valorization of the inviolate national boundary¹⁰—few have questioned the more fundamental assumption that law demands a unitary subject.¹¹ I focus on the law of disaster in this book in order to challenge this assumption.

At the same time, I emphasize that my focus on disaster has less to do with its aberrant nature and more to do with its normative, routine functions. I argue, in other words, that the law of disaster is not in fact different from the law that operates in the apparent absence of disaster—that the subjects of what is termed the jurisprudence of the “day-to-day”¹² are as much subjects in ecstasy as their counterparts in the midst of an earthquake or flood. As so many scholars have

noted in other contexts, that is, I argue in this book that the crisis has become the norm.¹³ My final point, therefore, is perhaps a counterintuitive one, especially in a book purporting to address disaster law: rather than aiming at some (legal) resolution to crisis or disaster situations, rather than attempting to solve the problem that is the crisis or disaster, I suggest that we should instead develop a legal vocabulary that recognizes disaster as the endpoint of law.

The rest of this introductory chapter is devoted to building a framework for addressing these points. First, I outline the major themes that appear throughout the book, and second, I introduce some of the theoretical work with which I engage. In the three sections that follow, for example, I address a number of broad trends in the literature on ecstasy, subjectivity, and truth. I describe ecstatic subjects of law as they appear in late twentieth-century work, and explain how my own interpretation of ecstatic subjectivity both draws on these descriptions and departs from them.

The sections “Ecstasy,” “Ecstasy and Subjectivity,” and “Ecstasy, Subjectivity, and Truth” explore the law of disaster—addressing recent theories of political exceptionalism, comparing these theories to emergency measures taken during crisis situations, and describing the ways in which these disasters and crises are made meaningful. My purpose in these sections is to situate my analysis of the crisis or the disaster—and more specifically the *subject* of the crisis or the disaster—within these broader theories of the state of exception. Again, in the section “States of Exception,” I suggest that although the subjects of disaster law are very much related to the subjects of the political exception, they are also distinct in significant ways.

The sections “Natural Disasters and Metaphysical Disasters” and “Disaster Law and Feminist Theory” set the groundwork for the chapters that follow by bringing together my working definitions of the subject in ecstasy and my working definitions of the subject of disaster law. The literature on subjectivity and the literature on disaster have both relied heavily on a rhetoric of crisis. In the first of these sections, I suggest that these natural disasters and metaphysical disasters are in many ways the same thing. Then in the second section, I define “disaster law” for the purposes of my argument, I describe how its constituent parts interact to produce the ecstatic subject, and I discuss broadly the importance of feminist theory to these relationships.

Ecstasy

It is difficult to dissociate ecstasy from subjectivity. As the next section shows, each has been repeatedly defined in relation to the other, and each lends itself easily to a relational definition. Before I get to this relational definition, however, I want to sketch a few characteristics of the former detached from, divorced from, or even prior to the latter.¹⁴ Literally, therefore, *ecstasy*—*ek-stasis*—means a “being put out of place” or a “standing outside of.” It is a term that describes a process—and a process alone. Who or what the subject or object of this process might be—what is put out of place, or what stands outside of what—is a question that is for the most part left unanswered. It is in fact only in the secondary definition of the term in Greek, a “being disoriented,” that the existence of a subject is implied at all.

Despite this relatively open literal definition of “ecstasy,” the usual definition that we see in contemporary political philosophy—a “being beside oneself” or a “being outside of oneself”¹⁵—seems to rest on the notion that the self or the subject¹⁶ *should* be a part of the conversation. The state of ecstasy in its initial articulation, that is, does not require a self. Contemporary discussions of the state of ecstasy do. What I would like to do in this section and the next, therefore, is begin with this initial articulation of ecstasy as a process, and then move on to ecstasy as an aspect of subjectivity—to the quite reasonable tendency to understand ecstasy primarily, or even only, in relation to the self.

What, then, does it mean to “be put out of place” or to “stand outside of?” First of all, each implies a process of decontextualization. Being put out of place means being deprived of a context, of reference points, of a meaningful framework. Being put out of place means being offstage; it means, more broadly, being incapable of representation. Being put out of place—like being eccentric (off center)—is thus to be constantly shifting, disintegrating, and reintegrating elsewhere. This is not a state of transcendence, not a process of othering or being othered.¹⁷ There is no movement from one defined or finite state to another. Rather, this is a state of constant and simultaneous isolation, disintegration, and reintegration.

What I suggest in this book is that the law of disaster seeks to produce precisely this state of ecstasy. Instead of understanding law—or law’s violence—as something that defines, represents, rationalizes, and forces into a meaningful frame, that is, I understand law as something that insists upon a process of decontextualization, a gradual move toward the indefinite. If there is a coercive

character to disaster law, therefore, I suggest that it manifests itself by shifting what can be represented into the realm of what cannot—not by forcing complex subjects to conform to simple, rational, or recognizable legal and political norms.

This does not mean, however, that subjects and subjectivity are irrelevant to legal ecstasy. “Being put out of place” and “standing outside of” each imply, at least, some object, subject, space, or narrative that is undergoing this process of decontextualization—each almost demands a thing that might be fractured, shattered, or placed beside itself. And to the extent that this thing is the body or mind, the subject does gradually begin to enter the picture. If ecstasy means standing outside of the body, standing outside of the mind, or standing outside of the self, in other words, it is in many ways an aspect of subjectivity.

Although I take as my starting point ecstasy as a process, my fundamental working definition of the term is “a decontextualizing,” or “a rendering incapable of representation.” In many instances, it is the subject who becomes decontextualized or unrepresentable. In some instances, however, it is not. Nonetheless, what I want to do now is turn to the work that *has* addressed ecstasy primarily in relation to subjectivity—to the work that has described the various ways in which ecstasy has indeed become a means of describing or even defining the subject.

Ecstasy and Subjectivity

Much of the late twentieth-century work on subjectivity took as its starting point the so-called Cartesian subject—seeking variously to challenge, critique, defend, or re-create the bounded, rational self that was invented, it was contended, by René Descartes.¹⁸ As Matthew L. Jones has argued, the story of Descartes’ invention of the modern subject became “a comforting fable” in many scholarly fields—a narrative in which “knowledge and truth” were assumed to “rest upon the individual subject and that subject’s knowledge of his or her own capacities.”¹⁹ Jones’s purpose in this analysis of Descartes is to emphasize the complexity of what has often been described as almost a caricature of the rational, modern, self—to rescue Descartes, at least in part, from the critiques of modernity in which he has been entangled.²⁰ By focusing on the mathematical exercises that “Descartes highlighted as propaedeutic to a better life and better knowledge,”²¹ for example, Jones states that Descartes’ philosophy valorized

“the will to recognize and to accept freely the insights of reason . . . not just following the passions or memorized patterns of actions. It meant essentially recognizing the *limits* of reason and willing *not* to make judgments about things beyond reason’s scope.”²²

My purpose in this section is not to argue in favor of, or against, the complexity of Cartesian subjectivity, or the validity of holding up the “Cartesian subject” as an actual product of Descartes’ philosophy and mathematics. Nor do I attempt in this section an extensive review of the late twentieth-century literature that addresses subjectivity in general. Given the hundreds of books and articles on the modern subject, its crisis, its death, and its revival that were published throughout the 1970s, 1980s, and 1990s—and that continue to appear, although with less frequency, today—such a comprehensive review would in any case be excessive. Rather, what I try to do in this section is paint in broad strokes some of the major themes that helped to shape this intellectual moment—and explain why I am seeking to return to it now. In particular, I emphasize the persistence of what has been called Cartesian reason, related or not to the philosophy of Descartes, as a trope in discussions of subjectivity—even, or especially, in those discussions that announce the death or crisis of the rational subject. I address, that is, the enduring assumption that truth and knowledge must be situated in bounded, self-conscious, rationality—even when this rationality is critiqued, challenged, or set aside.

At the same time, I should note that my point in this section is not that the critical writing on subjectivity is inconsistent or contradictory in its simultaneous dismissal of, and insistence on, Descartes’ rationality. It is true that even while grappling with the Cartesian subject, even while announcing the death, disintegration, irrelevance, or revival of this subject, much of the work on subjectivity seems to have treated this apparently dead, dispersed, or irrelevant subject as the norm. It is likewise true that although the modern, rational subject has been described as a subject in crisis for many decades or even centuries, it remains an often overwhelming presence in academic work today. I think that this is so, however, less because of the often paradoxical nature of scholarly writing, and more because there has been a misreading of the nature and development of modern law and politics. As I argue in the following chapters, the key figures in the development of political and legal structures over the past three centuries have not been the bounded, rational, self-conscious subjects of precrisis Cartesian rationality, but rather precisely the postcrisis subjects—the subjects

in ecstasy, beside themselves, unrepresentable, and at the margins—described by these critical works.

With that in mind, I am not going to start this discussion of ecstasy and subjectivity in the 1980s, but rather in the first couple of centuries CE, with the treatise of the literary critic, Longinus, *On the Sublime*. Longinus's purpose in this treatise is to analyze different types of rhetoric and to evaluate their efficacy in moving a public audience. Indeed, although he addresses a variety of styles of speech—poetic as well as political—he makes a point of asking early on (and repeatedly afterward) “whether we shall have theorized on something useful for men in political life.”²³ Throughout the text, Longinus remains interested above all in politically useful speech—and in the type of speech that forms a politically useful subject. Moreover, according to Longinus, at the heart of this question of political speech rests the relationship between the rational subject who can be persuaded by logical discussion and the subject in ecstasy who is irrelevant to such discussion. “What is beyond nature,” Longinus argues,

drives the audience not to persuasion, but to ecstasy. What is wonderful, with its stirring power, prevails everywhere over that which aims merely at persuasion and at gracefulness. The ability to be persuaded lies in us, but what is wonderful has a capability and force which, unable to be fought, takes a position high over every member of the audience.²⁴

A number of pages later, he continues that the “final end of poetry is the astounding of those who hear it,” and that both political speech and poetical speech “are seeking the sublime and the state of sympathetic excitement.” Finally, in a concluding section, he repeats, “you see—as I never stop saying—the works and emotions which come near to ecstasy are a release and a cure—all for every audaciousness in spoken and written style.”²⁵

According to Longinus, in other words, there is a clear and distinct division between unitary, rational subjects—subjects capable of being persuaded—and ecstatic subjects beside themselves, astounded, and in an altered state. As the editors of the text argue in their notes, the difference between being persuaded and being moved to ecstasy is that ecstasy is a “hypernatural” state that is “almost mystically beyond *logos*,” whereas being persuaded “indicates voluntary acquiescence as a result of *logos*.”²⁶ Being astounded—“a synonym of ‘ecstasy’”—“knocks you out” and results from a “direct sensation” or “images of such sensations,” and “is one of the principle jobs of the public speaker.”²⁷ I want to emphasize this

point: in Longinus's universe, there is the same dichotomy between the unitary subject and the ecstatic subject that we see in current work on subjectivity. Unlike the literary critics writing in the 1980s, however, Longinus assumes almost automatically that the *normative* subject—the subject produced by both political discourse and political structures—is the latter of these, the subject in ecstasy. Truth, power, politics, and life are a function of being beside oneself.²⁸

Two thousand years later, Michel Foucault addressed similar aspects of this trend in the work of classical ethicists and philosophers. In a series of lectures given in 1981 and 1982 on *The Hermeneutics of the Subject* and in 1983 on *Fearless Speech*, he goes into detail about the relationship among classical Greek and Roman subjectivity, existing outside of oneself or in an altered state, and having access to the truth.²⁹ Starting with the Socratic admonition to “know oneself” and “care for oneself,” Foucault makes the case that spirituality (as distinct from theology),³⁰ subjectivity, and truth were interconnected issues in the world of antiquity. Spirituality, he argues, “postulates that for the subject to have right of access to the truth he must be changed, transformed, shifted, and become . . . other than himself.”³¹ He continues that the insistence on “care of the self” in Socratic philosophy “designates precisely the set of conditions of spirituality, the set of transformations of the self, that are necessary conditions for having access to the truth.”³² As a result, he concludes, “the philosophical theme (how to have access to the truth?) and the question of spirituality (what transformations in the being of the subject are necessary for access to the truth?) were never separate.”³³ Like Longinus, Foucault recognizes that persuasion through *logos* was neither invested with an obviously positive moral value nor particularly closely associated with truth or reality in the classical world. He argues that in Greek thought, for example, “you *metanoei* (you change opinion) when you have been persuaded by someone,” and this process “always has a negative connotation, a negative value.”³⁴

Foucault continues by comparing this classical relationship among subjectivity, spiritual transformation, and truth to modern variations on the same theme. In the process, he develops two further points. First of all, he argues that the “Cartesian moment”—a term he uses as shorthand for a general modern shift toward unitary rationality in ethics and philosophy—marked the point at which “know yourself” was “requalified,” and “care of the self” was “discredited.”³⁵ Rather than linking truth to an altered or transformed state, Foucault suggests,

modern philosophers instead insisted that “the condition for the subject’s access to the truth [was] knowledge, and knowledge alone.”³⁶ In *Fearless Speech*, he elaborates on this notion, stating that,

before Descartes obtains indubitably clear and distinct evidence, he is not certain that what he believes is, in fact, true. In the Greek conception of *parrhesia* [speaking freely], however, there does not seem to be a problem about the acquisition of the truth since such truth-having is guaranteed by the possession of certain *moral* qualities: when someone has certain moral qualities, then that is the proof he has access to the truth—and vice versa.³⁷

According to Foucault, in other words, there is a distinction between the modern assumption that truth exists outside of the subject—and thus requires a self-conscious, knowing subject capable of grasping it—and the classical assumption that truth and (altered) subjectivity are the same thing. In the classical period, he argues, something could be true only via recourse to the transformed, uniquely virtuous, or ecstatic subject. In the modern period, contrarily, something could be true only via recourse to knowing, rational, unitary subjects—subjects who were, by definition, *not* beside themselves.

The second and related point that Foucault draws from both his analysis of classical subjectivity and the distinction he posits between classical truth and modern truth is that the *ecstatic* subject of Greek and Roman texts had no relationship to law or politics. For example, *ascesis* (or *askesis*—exercise or the practice of caring for oneself) is not, for Foucault, “a way of subjecting the subject to the law; it is a way of binding him to the truth.”³⁸ More emphatically, he argues that “in the culture of the self of Greek, Hellenistic, and Roman civilization, the problem of the subject in his relation to practice leads . . . to something quite different from the question of the law.”³⁹ Indeed,

however pressing the city-state may be, however important the idea of *nomos* may be, and however widespread religion may be in Greek thought, it is never the political structure, the form of law or religious imperatives that can say what a Greek or Roman . . . must do concretely throughout his life. In Greek classical culture, the . . . art of life is, I believe, inserted in the gaps left equally by the city-state, the law, and religion regarding this organization of life.⁴⁰

In addition to positing the Cartesian moment as the end of the normative ecstatic subject, in other words, Foucault is likewise arguing that, even in antiquity,

subjects beside themselves had little to do with law or politics. The care of the self, the truth that was accessed by the transformed subject, had nothing to do with the world of the city-state and the legal structures that defined it.

These two points—the shift marked by the Cartesian moment and the irrelevance of any but the Cartesian subject to law and politics—have been extraordinarily influential in writing on subjectivity. Judith Butler, for example, operates in an analytical framework in many ways similar to Foucault's and, like him, understands the ecstatic subject as a marginal figure in law and politics. It is true that rather than positing a chronological break—the Cartesian moment—as the thing that differentiates the ecstatic subject from the bounded subject, Butler instead posits a narrative or discursive break. But the dichotomy is nonetheless clear. On the one hand, for example, she argues that terms such as “*my sexuality*” or “*my gender*” indicate not so much possession but “*modes of being dispossessed*, ways of being for another or, indeed, by virtue of another.”⁴¹ On the other hand—and in opposition to this fractured subjectivity—she states that in the context of law, politics, and rights,

we have to present ourselves as bounded beings, distinct, recognizable, delineated, subjects before the law, a community defined by sameness. Indeed, we had better be able to use that language to secure legal protections and entitlements. But perhaps we make a mistake if we take the definitions of who we are, legally, to be adequate descriptions of what we are about. Although this language might well establish our legitimacy within a legal framework ensconced in liberal versions of human ontology, it fails to do justice to passion and grief and rage, all of which tear us from ourselves, bind us to others, transport us, undo us, and implicate us in lives that are not our own, sometimes fatally, irreversibly.⁴²

On the one hand, she continues, “to assert sexual rights” means “struggling to be conceived as person . . . [and] intervening into the social and political process by which the human is articulated.”⁴³ On the other, failing to engage effectively with political, legal, and social structures renders certain people less than real—renders “their loves and losses less than ‘true’ loves and ‘true’ losses.”⁴⁴

Like Foucault, that is, Butler also draws a number of distinctions between the unitary, knowing subject and the dispossessed subject in ecstasy. First of all, it is the unitary subject who is the subject of legal and political structures. Ecstatic subjects—even if they are “what we are about”—remain irrelevant to the language of law and rights, reminiscent of Foucault's subjects of *askesis*. Second, something can become (politically or legally) true or real in this context only via

recourse to the unitary subject. The subject in ecstasy—eccentric to these structures—can never produce effective (political or legal) truth.⁴⁵ In the work of Butler, it is precisely a “Cartesian” type of law or politics that renders the loves and losses of those beside themselves less real and less true than the loves and losses of those who are self-contained. Although she does spend time in her work trying to redefine rights and law such that they might be relevant to fractured subjects, therefore, I want to emphasize that Butler’s starting point and assumptions are not far removed from Foucault’s: law as it exists *now* assumes a bounded, unitary subject. Access to (recognized political) truth has nothing to do with the subject in ecstasy.

Rosi Braidotti, who has also written extensively on subjectivity, draws conclusions that are in many ways different from Butler’s but, again, seem founded on the same assumptions about bounded and ecstatic subjects. In her *Nomadic Subjects*, for example, Braidotti asks “how can we *affirm* the positivity of female subjectivity at a time in history when our acquired perceptions of ‘the subject’ are being radically questioned?”⁴⁶ She asks furthermore whether it is possible “to avoid hegemonic recodification of the female subject . . . to keep an open-ended view of subjectivity, while asserting the political and theoretical presence of another view of subjectivity.”⁴⁷

Throughout much of her writing, Braidotti proposes a number of possible answers to these questions. Drawing on the work of Luce Irigaray, for example, she argues that the crisis of the Cartesian subject should be recognized as “only the death of the universal subject—the one that disguised its singularity behind the mask of logocentrism.”⁴⁸ Drawing on the work of Deleuze, she argues that the subject is a “process,” and “can no longer be seen to coincide with his/her consciousness but must be thought of as a complex and multiple identity, as the site of a dynamic interaction of desire with the will.”⁴⁹ According to Braidotti, in other words, the way out of the crisis of the Cartesian subject is to recognize that its defining (violent) characteristic was its “logocentric” claim to universality. Similarly, the particular danger that faced feminists and critical theorists—a danger against which Braidotti convincingly warns—was that their work would simply recodify this unitary, universal subject under different terms.

Where, though, does this place law? In a relatively familiar move at this point, Braidotti associates law—in some ways conflated with logocentrism in her work and in other ways not—with the dead Cartesian subject. Law becomes irrelevant, that is, when the unitary, rational subject has disappeared. Indeed, in her

1994 discussion of biopolitics as an (undesirable) manifestation of this postcrisis thinking, Braidotti argues that,

the biopower world is marked not by the sovereignty of the law but by prohibitions, rules, and regulations that bypass, overflow, and disregard what used to be the law. The bodily matter is directly and immediately caught in a field of power effects and mechanisms for whom legislation, when not archaic, is simply redundant.⁵⁰

A year later, Giorgio Agamben would make the case that sovereignty and biopolitics are much more closely—or at least ambiguously—related to one another than this.⁵¹ Rather than going into more detail about his argument now, though, I simply want to highlight, again, the assumptions under which Braidotti appears to be operating. Unlike Butler, who remains convinced that—despite the metaphysical crisis—both the unitary subject and the language of law are ideas worth engaging, Braidotti argues that the crisis has effectively killed both. Butler advocates some sort of working relationship between the subject beside itself and the legal rhetoric that apparently ignores this subject. Braidotti—like Foucault in his analysis of classical theories of the self—disregards law and its unitary subject altogether. At the same time, however, all three nonetheless see the same, and I think familiar, relationship between law and subjectivity: law produces a bounded, rational subject; law thus has nothing to do with the ecstatic subject; law is therefore (a) irrelevant, or (b) in need of redefinition.

The ecstatic subject, in other words, died with Descartes, and the Cartesian subject died soon after, during the repeated critiques of modernity throughout the late nineteenth and twentieth centuries. And now we are left with—something else. What I want to argue in this book, however, is that this something else is none other than our original ecstatic subjects—and that it is these ecstatic subjects, far more than their ephemeral Cartesian counterparts, that have been the normative subjects of modern, if not necessarily classical, law and politics. In particular, it is the ecstatic subject who has been the focus of disaster law and politics. And, to the extent that disasters have in many ways become the day-to-day norm, the subjects that they have produced have likewise become far more—paradoxically—central than they might initially appear.

Again, my purpose in this section has not been to attempt a literature review—or even an extended definition—of “the subject” as a theme in philosophy and ethics. Rather, I have tried to pinpoint some common trends that appear and reappear in writing on subjectivity, ecstasy, and truth. In general, regard-

less of perspective or prescription, much of the work on these issues seems to be founded on the same assumptions. First of all, whether the break is chronological as it is in Foucault, or discursive as it is in Butler, there appears to be a distinct dichotomy set up between the unitary subject and the subject in ecstasy. Second, there is likewise an assumption that whereas in the premodern period ecstatic subjects could be the political norm—truth accessed and produced by subjects beside themselves—in the post-Cartesian world, unitary, rational subjects became the norm, and (political and legal) truth was derived from what could be verified rationally and externally. In general, that is, despite the fact that the Cartesian subject has died repeatedly over the past century and a half, it still appears in work on subjectivity with a perplexing frequency.

I argue that this is the case, however—that Descartes' subject will not die—not because of some intellectual paradox, not because of some lag between metaphysical crises and political ones, but rather because of a misreading of politics, law, and truth in the post-Cartesian world. It is not, I suggest, the unitary subject that has been the basis for political and legal structures over the past three centuries. Rather, the political and legal norm has been the subject in ecstasy—that subject theorized so many centuries ago by Longinus and his contemporaries, and that subject who has survived so many floods, fires, earthquakes, and disasters.

Ecstasy, Subjectivity, and Truth

Although I began to describe the relationship between ecstatic subjectivity and access to the truth in the previous section, I pause here to explain in more detail how this relationship will play out in this book. As Foucault, Butler, Braidotti, and others have argued, the truth accessed by ecstatic subjects and the truth or reality accessed by rational, bounded subjects seem completely distinct from one another. Ecstatic subjects alter themselves, internally or spiritually, as a means of apprehending truth in its totality. According to Foucault, for instance, “during the Hellenistic and Roman period there is the increasingly marked absorption of philosophy (as thought concerning truth) into spirituality (as the subject's own transformation of his mode of being). With this there is, of course, an expansion of the cathartic theme . . . [H]ow must I transform my own self so as to be able to have access to the truth?”⁵² Spiritual, cathartic transformation, that is, predisposes subjects to engaging with truth.

Rational subjects, contrarily, alter the external world such that they can gradually gather knowledge, which will then, piecemeal, lead to a different sort of truth. This does not mean, however, that rational subjects are not concerned with their internal state. As Jones argues with respect to Descartes' work, for example, "Descartes' geometry was . . . a spiritual exercise [*askesis*], meant to counter instability, to produce and secure oneself despite outside confusion, through the production of real mathematics. Descartes' famous quest to find a superior philosophy took place within this therapeutic model."⁵³ The difference between these two approaches to truth and subjectivity, therefore, is less that one ignores the self whereas the other takes the self as a starting point. More, it is that in the latter, truth follows from anchoring the self, whereas in the former, truth follows from shifting or transforming the self. Whereas the ecstatic subject changes, or even loses, the self in order to internalize truth, suddenly, in its totality, the rational subject secures, or even asserts, the self in order to comprehend truth, progressively, through the gradual accumulation of evidence.

What I suggest in this book is that the law of disaster operates at the intersection of these two approaches to subjectivity. It does seek security of the sort demanded by Descartes, but what it secures is the subject in, and state of, ecstasy. It secures each of these in a *rational* way—defining, representing, and contextualizing them. But it defines them as indefinable, represents them as unrepresentable, and contextualizes them outside of context. As a result, the subjects of disaster law access a truth that is both total or immediate *and* dependent on gradual, rational alterations to the external world. The ecstatic subjects sought, described, and produced by disaster law, that is, have unique access to a truth that is simultaneously spiritual and rational. In turn, the legal narrative of disaster that these subjects produce is a narrative that is more than total—that describes not just public and private, but internal and external, spiritual and rational, ecstatic and bounded.

When I say that the state of ecstasy—or more narrowly, the subject in ecstasy—endows the disaster with meaning, therefore, I am making a very distinct and narrow claim. I am arguing that as the law of disaster is elaborated, what may or may not have happened in the disaster area is less meaningful than the shattered, decontextualized condition of the subjects of disaster law. What broke, what died, what burned down, what was destroyed becomes in some ways irrelevant as disaster law is articulated. Instead, what becomes key to determining the existence of the disaster is the state of the subject, the partner, the slightly less

than real *other* actor, who may or may not have even existed when the disaster struck.⁵⁴ Moreover, it has been primarily via reference to these shattered subjects that legal narratives of disaster—and that the legal meanings of disaster—have been formulated, reformulated, and put into play.

States of Exception

I turn now to interactions between theories of subjectivity and theories of exceptionalism in writing on disaster. Many recent analyses of law and disaster have taken the state of exception as a starting point, drawing in particular on the work of Carl Schmitt and Giorgio Agamben. These discussions have addressed both the concrete relationship between natural disasters and states of exception—the extent to which catastrophes blur the line between law and politics and provoke emergency measures—as well as the more theoretical relationship between disaster as a concept and the political philosophy of the exception. What I do in this section, therefore, is talk briefly about Schmitt's and Agamben's theories of the exception and then explain in more detail how my subjects in ecstasy reflect Agamben's *homo sacer*, and also the ways in which they do not.

At the beginning of his *Political Theology*, Schmitt argues that a sovereign is “he who decides on the exception.”⁵⁵ According to Schmitt, sovereign existence is in fact predicated on the state of exception—the relationship between sovereign power and the exception identical to the relationship between divine power and the miracle. “The exception in jurisprudence,” he argues, “is analogous to the miracle in theology,” and just as the divine suspension of the laws of nature proves the existence of God, so too the sovereign suspension of the sovereign's law proves the existence of the sovereign.⁵⁶ Each is situated in precisely the destruction of a system of objective legal norms.

In his critique of Schmitt's arguments, Agamben reevaluates this discussion of sovereign power and develops a useful and peculiarly *spatial* theory of the exception. The state of exception, he argues, “represents the inclusion and capture of a space that is neither outside nor inside” the juridical order that constitutes the norm.⁵⁷ The exception instead has a unique relationship with the norm, in which,

in order to apply a norm it is ultimately necessary to suspend its application, to produce an exception. In every case, the state of exception marks a threshold at which

logic and praxis blur with each other and a pure violence without *logos* claims to realize an enunciation without any real reference.⁵⁸

A number of pages later, Agamben turns to a concrete example of this process—“periodic anomic feasts” such as the Roman Saturnalia⁵⁹—which “dramatize this irreducible ambiguity of juridical systems” and “celebrate and parodically replicate the anomie through which the law applies itself to chaos and to life only on the condition of making itself, in the state of exception, life and living chaos.”⁶⁰

The state of exception is, in other words, a disaster. Moreover, as Ellen Kennedy has argued, this theoretical link between the political exception and the natural disaster became gradually more concrete over the nineteenth and twentieth centuries, as the “definition of political power became more closely associated with power in exceptional circumstances.”⁶¹ According to the 1807 U.S. “Insurrection Act,” for example, the president can use military force to restore order in response to “a natural disaster, epidemic, or . . . terrorist attack,” as well as an actual insurrection.⁶² By the early twentieth century, the American Red Cross reports were conflating riots and rebellions with famines and floods.⁶³ In nations like Italy, the “law specifically recognized ‘riots and plagues’ as instances where governmental (political) power was required and imminently justified.”⁶⁴ In both their theoretical and practical application, that is, the politics of disaster and the state of exception seem in many ways interchangeable.

More fundamental to my own argument, however, is the subject assumed by these theories of politics and disaster. Although neither my brief analysis of Schmitt nor my brief analysis of Agamben refers directly to the subject produced by the state of exception, a certain type of subjectivity is nonetheless implied in the work of both. In the work of Schmitt, for example, the subject is nonrational, nonverbal, nonobjective—at home in a universe of sudden miracles and (quite classical) alterations of state and self. According to Agamben, subjects of the exception are both outside and inside the sphere of politics, simultaneously temporary and permanent—they are subjects that manifest themselves most concretely when law, governing chaos, embodies chaos. Put another way, subjects of the state of exception appear at first very much to be subjects in ecstasy. They are eccentric subjects, offstage. They are explicitly indefinable, occupying a limit space, straddling multiple contradictory positions, and beside themselves. They are the seeming opposite of the bounded, definable, unitary subject of the Cartesian moment.

So the state of exception produces something that looks like subject in ecstasy—and it would seem, therefore, that we have an excellent frame of reference for thinking about the law and politics of disaster. I want to pause here, however, and make clear that, in my analysis, the law and politics of disaster are *not* in fact identical to the state of exception. Again, as I argue throughout this book, the subject in ecstasy, the subject of the disaster, has unique access to a particular kind of truth, is in a unique position to endow the disaster with meaning. The subject in ecstasy *defines* the disaster, provides a link between the world of disaster and the world of law. The relationship, therefore, between the subject and the disaster is, if anything, an *inverted* version of the relationship between the subject and the exception. Just now we saw that the state of exception demands what looks like a subject in ecstasy. Over the following pages, however, I argue that subjects in ecstasy are far more active than their exceptional counterparts—central to the production of legal and political truth.

As a result, although related to Agamben's *homo sacer*,⁶⁵ the ecstatic subject is in many ways quite different—being, if nothing else, a more optimistic figure. *Homo sacer*, for example, represents both the starting point and the end point of the inscription of bare, biological life into political structures.⁶⁶ *Homo sacer* is manifested concretely in the hyperbolically passive “neomort,” refugee, or *Muselmann* of the Nazi death camp. The death of *homo sacer* is a nonevent, is irrelevant, because *homo sacer* is defined first by a politics in which all that matters is the regulation of bare life, and second by a bare life that has been stripped of political meaning. And so the life, also, of *homo sacer* is irrelevant, spiritually⁶⁷ meaningless, reduced to bare biological markers.

When I argue that ecstatic subjects endow the crisis or disaster with meaning, therefore, I am understanding these subjects to be something quite different from *homo sacer*. I thus approach Agamben's work in a manner similar to Braidotti, who criticizes

the extent to which *zoe*⁶⁸ gets coded in negative terms, for instance in the post-Heideggerian work of Agamben, as a liminal state of extreme vulnerability of being human: a becoming-corpse . . . [T]he potency of *zoe* as the defining trait of the subject displaces the unitary vision of consciousness and the sovereignty of the “I”. Both liberal individualism and classical humanism are accordingly disrupted at their very foundations. Far from being merely a “crisis” of values, I think this situation confronts us with a formidable set of new opportunities.⁶⁹

I therefore argue that ecstatic subjects are hyperbolically active. Their death,⁷⁰ unlike the death of *homo sacer*, is in every way a catastrophe—of the utmost importance. Indeed, with the death of the ecstatic subject, all truth, all meaning, any link between law and disaster disappears. If ecstatic subjects *produce* politics, their nonexistence is unthinkable. Unlike the life of *homo sacer*, the life of the ecstatic subject is if anything *overdetermined*, spiritually critical, situated in, but also far beyond biology. It is a life that must have active, political, narrative meaning in order for political and legal structures to function. Although I address in this book the violence, racism, sexism, and straightforward butchery that dog both legal ecstasy and the politics of disaster, therefore—just as they dog the politics of the exception and “day-to-day” politics—I also insist that there are less ominous qualities that can and do attach themselves to eccentric subjects in ecstasy.

Natural Disasters and Metaphysical Disasters

It will have become clear by now that although the focus of this book, narrowly defined, is natural disasters or crises—fires, floods, earthquakes, and the like—I am also defining both “disaster” and “crisis” as broadly as I can. I am doing so primarily because when we move away from the bounded subject of day-to-day law and start to address the ecstatic subject of the law of disaster, we are faced with the problematic, fractured, and indefinable character of disaster itself. The day-to-day has recently been resituated as a site and state of constant violence (if also occasional transcendence), incapable in many ways of representation.⁷¹ In the process, however, the disaster or the crisis—what the day-to-day has now become—has to some extent been emptied of even its earlier idiosyncratic meaning. What I do now, therefore, is look briefly at what has historically been defined as a disaster or crisis, and what, historically, has not. In doing so, I start with the nineteenth- and twentieth-century rhetoric of the natural disaster, and then move on to what has been called more generally the metaphysical crisis of the rational subject. I suggest in the following section that the relationship between the natural disaster and the metaphysical disaster is much closer than it might at first appear—that both produce systems of law and politics arrayed around decentered, eccentric subjects, subjects in ecstasy and beside themselves.

With that in mind, I begin by addressing two early twentieth-century texts that unambiguously seek to define “disaster.” The first is a 1909 article written for

the American Geographical Society discussing an earthquake in Messina, Italy. It begins:

On May 3rd 1887, an earthquake might have been felt in many places scattered throughout about one-half Old Mexico as well as over two-thirds of Arizona and New Mexico. This shock was not chronicled in the world's centers of culture, and even up to the present it has been vouchsafed but little attention; yet it was undoubtedly a far heavier shock than that which has just stirred the emotions and aroused the sympathies of the entire civilized world. The area of the destructive shocks of the earlier disturbance exhibits an alternation of mountain and arid plain, much of it inhabited only by Indian tribes with a few scattered ranches and mining camps. Had it been much more thickly settled than it was, it is probable that the loss would have been small. If an army in tents had encamped upon the site of Messina on the morning of the 28th of December last, the loss of life and property would have been insignificant.⁷²

The second text is from an American Red Cross report summarizing Red Cross activities between June 1917 and June 1918. In this report, "military relief" is carefully differentiated from "civilian relief," with "great disasters" or "calamities" appearing as subsections of the latter. Among the acts of military violence relieved in 1917 and 1918 were battles and famines in France, Romania, Russia, Serbia, Belgium, Italy, Syria, and Palestine. Among the calamities and disasters relieved over the same period were "six large fires, four floods, four tornadoes, two earthquakes, one shipwreck, one storm, one race riot, one explosion in a munitions plant, one ship sunk by submarine, and one explosion of a munitions ship in harbor."⁷³

Each of these passages contains a straightforward definition of disaster, calamity, or crisis—followed immediately, however, by what is arguably an undermining or shattering of this definition. Each assumes that the line between disaster and not-disaster is clearly distinguishable, but each in turn seems to blur this line into effective nonexistence. In the first passage, the disaster is apparently differentiated from the not-disaster by the existence of a settled population in the disaster area. What seems to be important in understanding disaster, in other words, is not only that a shock occurred, but that there were recognizable people around to feel it.⁷⁴ The passage brings the disaster's destruction to life not only via reference to what happened, but also—and perhaps more so—via reference to what this destruction, what this disaster, what this crisis, was *not*. According to the article, the Messina earthquake did not occur in the implicitly empty space of the American Southwest, it did not occur beneath a tent city, and

it was not at the margins of the civilized world. Again, I want to make this reference point clear: what makes the Messina earthquake understandable is not just that it occurred at a center of civilization—where people could feel it—and that it therefore produced *x*, *y*, or *z* meaning; more so, what makes it understandable is that there may or may not have been *another* earthquake that occurred *beyond* the bounds of civilization, where no one would have noticed the shocks.

This may seem like an insignificant shift in perspective, but I suggest that it is fundamental to both the law of disaster and to its ecstatic subject. First of all, realizing that what makes a crisis real is not its proximity to centers of civilization, but rather an alternative, marginal, *other* disaster's *lack* of proximity to centers of civilization moves us beyond the usual discussions of national or imperial subject formation that appear in so many analyses of both political and natural violence.⁷⁵ The point here is less that certain spaces or bodies occupy certain rungs on racist or colonial civilizational hierarchies, and that, depending on this placement, the suffering or violence that occurs in these spaces or to these bodies becomes more or less real or meaningful.⁷⁶ The point is less that crises that occur at what has been defined as the center of civilization demand more attention, produce more emotional arousal, and attract more sympathy among the comfortable, secure, imperial subjects who develop these hierarchies in the first place. Rather, like premodern dream manuals, these narratives link the reality of a disaster to the eccentric subject offstage or to the ecstatic subject in flux.

What is important in deciding on the reality of a disaster or crisis, in other words, is not just that it happened—empirically—or that it caused destruction—measurably—at some imperial or neoimperial center. What is important is that another crisis may have been glimpsed briefly, out of focus, outside the frame, at the same time. The 1887 earthquake *might have been felt by hypothetical* Indians, ranchers, and miners. The unknowable space of the American wilderness, or the ephemeral and never built tent city, could *possibly* have been wracked by disaster. And *therefore* the Messina earthquake occurred. The crisis here is above all a crisis of what cannot and could not be represented, defined, or understood.

If we turn to the conclusions reached by the American Red Cross, they seem if anything more clearly addressed to the political subject in ecstasy. Once again, among the implicitly apolitical calamities and disasters relieved by the organization were not just fires, floods, tornadoes, earthquakes, storms, shipwrecks, and explosions, but also “race riots” in the American Midwest and submarine attacks in the Atlantic Ocean. To reiterate: according to the American Red Cross, a race

riot or a submarine attack resembles a flood or a tornado more than it does a battle or a revolution. Why should this be? One simple explanation is that the organization is sending a message about what can and cannot be endowed with political meaning. Unlike the meaningful, if unfortunate, devastation caused by a battle or a revolution, the violence associated with the race riot or submarine attack is without meaning. Like an earthquake or a storm, a race riot or a submarine attack is chaotic, uncontrolled, and without purpose. There is no cause or effect, no rationality or reason, associated with these disasters. They are nothing more than pointless, formless destruction—asking for political whys and wherefores is as absurd as asking why, politically, a flood affects one city but not another.

Although this interpretation of the American Red Cross reports is in many ways a convincing one, I think there is also more going on in the organization's counterintuitive process of categorization. If we think about what sort of subjects are involved in both the race riot and the submarine attack, we can see that the report is conforming quite clearly to the paradigm established by the American Geographical Society. By the end of the First World War, the submarine attack had become associated almost exclusively with what was termed "illegal" German military activity—so much so that many analysts were designating submarines as pirate ships and hence the "enemies of all mankind."⁷⁷ Detached from any sort of definable political identity, placed on the boundless open seas, incapable of representation, the submarine-as-pirate had, by 1917, *already* become a fractured subject. On the one hand, it was part of the rapidly disintegrating sovereign state that was Germany. On the other, it was outside any sovereign system—isolated and in flux.

The American "race riot" was even more closely associated with the not-quite-sovereign eccentric or ecstatic subject. Incorporated into political systems in much the same way that pirates were, the dissatisfied "race" was simultaneously outside and inside, shattered, multiple by definition. Although the American Red Cross's process of categorization is without question a means of delegitimizing what in other circumstances would look like quite legitimate political violence, therefore, it is also more than that. In the very process of emptying the race riot and submarine attack of political meaning, the report is revealing the ecstatic state of the subjects associated with them. More important, the report is then invoking these shattered subjects as a means of determining what *is* a "disaster" and what *is* a "calamity." In the same way that the Messina earthquake

became real at the same time as—and *because*—imagined Indians became real, the floods, tornadoes, and earthquakes relieved by the American Red Cross became real only alongside the pirate submarine in its disastrous destruction, and the race riot in its calamitous fury. These disasters could *only* occur once the ecstatic subject had been situated as the norm.

These two passages are anecdotal ones, indicative of broader trends in the politics of disaster or crisis that I discuss later on. For now, I just want to emphasize, again, that the process of defining a certain event as a disaster, a calamity, or a crisis is more complicated than it might at first appear. Most fundamentally, an earthquake, flood, fire—or for that matter submarine attack—becomes a disaster not only, as has been theorized before, because certain spaces, bodies, or narratives occupy certain places on an imperial civilizational continuum, and are thus endowed with greater or lesser value or meaning. Rather, an earthquake becomes a disaster precisely because shattered subjects beside themselves are briefly more real, more valued, more meaningful than their bounded, rational counterparts. The rhetoric of disaster is aimed at the ecstatic, eccentric subject, not at the unitary, self-conscious one. Indeed, the crisis so relentlessly decenters these rational, bounded subjects, that in many ways they disappear altogether. One talks about the Messina earthquake by invoking hypothetical Indians, miners, and ranchers. One relieves a flood by turning to submarine/pirates and racial storms. The disaster becomes a disaster only in the presence of the subject incapable of representation.

If we turn from the natural crisis or disaster to the metaphysical crisis or disaster, we can see almost identical themes playing out. Indeed, the crisis of the rational subject has been one of the fundamental points of reference in the past two hundred years of political philosophy—often used to signify a reinterpretation of truth or reality. In order to address this crisis, I highlight one analysis of it—Braidotti’s—and then re-situate my study of natural disaster within it. In her 1991 book, *Patterns of Dissonance*, Braidotti seeks, first, to address what she calls modernity’s metaphysical crisis—the “crisis of the rational subject”—second, to analyze the rhetoric of the “feminine” in the political philosophy that has responded to this crisis, and finally, to ask why it is that despite this emphasis on the feminine, feminist theory and discussions of actual women have remained so marginal in the work of contemporary philosophers.

In addressing these issues, Braidotti invokes the work of a number of political theorists, but her starting point is, again, Descartes, and particularly the Carte-

sian interpretation of (and attack on) the body. According to Descartes, Braidotti argues, the body conforms “to a very precise geometry: it has a volume that occupies a certain amount of space so as to exclude from it all other bodies.”⁷⁸ This body, the site of “pre-rational susceptibility” and “multiple other perturbations,” is held up in opposition to “thought,” which is “defined as the principal of intellection” and “is the driving force of the will thanks to which man can dominate the powerful sensory perceptions which invade him.”⁷⁹ As a result, the body becomes “the favorite target of Cartesian method, and thus forms the battleground for the combat between reason and its other.”⁸⁰

From this point, Braidotti traces the various ways in which modern political philosophy has critiqued, undermined, or simply moved away from Descartes’ rational subject, with its antagonistic intellect/body paradigm, and toward a re-evaluation of subjectivity. According to her analysis of Foucault, for example, the subject is “eccentric in relation to him/herself . . . situated in the void opened up by the discourse on him/her,” and “in this space, which nudges nihilism whilst at the same time resisting it . . . it becomes possible to think anew about the modern subject.”⁸¹ Addressing Deleuze, who plays a significant role in her analysis, Braidotti likewise discusses the transition from “thinking” in “Western metaphysics,” which “always means thinking about something” to “the new intransitive status [of thinking] reached by contemporary theories of subjectivity.”⁸² The fundamental strain that runs through all of her argument, however, is again that first, these new theories of subjectivity represent a crisis and, second, that this crisis is inextricably linked to gender studies⁸³ and feminist theory.⁸⁴ As a result, she emphasizes, alongside “the rejection of the alleged universality of the knowing subject, and the critique of the complicity of masculinity and rationality,” there must be “a renewal of intent in the sex-specific nature of the subject,” that begins “with the idea of embodiment.”⁸⁵

What, though, does this metaphysical crisis have to do with earthquakes that afflict hypothetical Indians in the imagined American Southwest, or with submarines and race riots that code as fires and floods? Most obviously, both the crisis that is the natural disaster and the crisis of the rational subject are concerned with addressing the meaning of destruction—and in particular the relationship among destruction, reality, and subject formation. The American Geographical Society wants to describe and define the Messina earthquake and wants to know what Messina and its inhabitants are, now that they have been destroyed. The American Red Cross wants to do the same with its myriad floods,

fires, tornadoes, and explosions. Similarly, Foucault and Deleuze want to know what Descartes' rational subject is, now that it has been demolished. Braidotti wants to address the disintegration of his mind/body dualism.

More to the point, however, both the natural disaster and the metaphysical crisis produce identical responses—responses addressed first and foremost to what cannot be represented. Foucault's subjects are eccentric to themselves and situated in a discursive void. His subjects, in other words, are in many ways a collection of fantasy Indians, ranchers, and miners who exist offstage in the discursive emptiness that is the imagined American Southwest. Deleuze's thought is intransitive above all—there is no cause or effect, no rational progress narrative that imparts depth to his thinking subject. His thinking subject is thus likewise in many ways a submarine attack or a race riot—emptied of meaning, but representative of a new embodied subjectivity precisely in its shallowness.

Braidotti's discussion of the "feminine" as representative of the limitations, gaps, and deficiencies in an apparently precrisis rhetoric of the rational subject in this way becomes quite significant in my analysis of disaster. I do not think that these similarities in defining, discussing, and responding to the metaphysical disaster and defining, discussing, and responding to the natural disaster are arbitrary. Each type of crisis demands a new subject, and each type of crisis brings ecstasy within reach. Moreover, to the extent that the crisis of the rational subject has destabilized two centuries of juridical truth—even while most contemporary legal rhetoric remains resolutely blind to its destructive potential—the law of disaster must be operating on multiple levels. I therefore suggest in this book that metaphysical and natural disasters do not just explain one another, but that they produce one another—and that as much as legal responses to them cry out for a rational subject, it is the subject in ecstasy that is eventually revealed.

I conclude this section by saying that although I started with a plea to revive ecstasy as a category of legal and political analysis, in many ways I end with a plea to shift gender studies and feminist theory to the center of the study of law and politics. If ecstatic or eccentric subjects are as foundational as I suggest they are, then the methodologies developed by scholars of gender will be indispensable in addressing them.⁸⁶ Likewise, *if* there is a field in which the ecstatic or eccentric subject—the displaced, decentered, shattered, peripatetic object of law and politics—has been effectively theorized, that field is gender studies or feminist theory.⁸⁷ In the same way, therefore, that I am calling for a return to the emphasis on ecstasy that occurred in the 1970s and 1980s, I am likewise calling

for a rereading of the theories of gendered subjectivity that appeared alongside it in the 1980s and early 1990s. Returning to these discussions will be essential to an effective reading of the politics of disaster and the types of subjects that these politics describe.

Disaster Law and Feminist Theory

I define “disaster law” broadly in this book. Although the cases, statutes, codes, and regulations that compose the legal doctrine of disaster play a significant part in my argument, I pay equal attention to the literary and cultural discourse of disaster law—and deliberately ignore the boundaries that are thought to exist between legal texts with legal meaning and cultural texts with cultural meaning. When I invoke disaster law, therefore, I invoke not only, for example, the trials of criminally negligent building contractors, but the popular response to these trials, and the political management of this popular response—without privileging any one set of texts over the others as more truly legal. I describe not just the regulations that have ordered postdisaster refugee camps, but also the spatial manifestations of these regulations, and the autobiography or poetry produced within these spaces. My contention is that it is precisely as these legal, cultural, political, and literary texts intersect that disaster law is elaborated. My working definition of disaster law is the simultaneously legal, cultural, political, and literary production of the subject in crisis.

At the same time, I am well aware that such a broad definition of disaster law runs the risk of becoming not only broad, but also diffuse. I therefore devote this section to explaining my understanding of disaster law in more detail, anchoring it within the discussions of ecstasy, truth, exceptionalism, and metaphysical crises that came before. More specifically, I answer two questions: first, how is it that a poem or a pamphlet *can* be as effectively legal—as much “law”—as a case or a statute, and second, how is it that the subject in ecstasy can operate within this broadly defined legal sphere? Underlying both questions is a more fundamental one that I also address in this section—namely, why gender studies or feminist theory methodologies are the most effective means of describing both disaster law and its political subjects.

The three major chapters of this book all follow a similar plan. In each, I begin with a specific case, code, or narrative that is not obviously relevant to the legal doctrine of disaster—a case, for instance, that is ordinarily studied for its

bearing on medical ethics, a code that has meaning primarily as a foundation for interwar sovereignty, or a narrative that initially operated only in the universe of nineteenth-century imperial geography. Each of these examples serves as an introduction to a more targeted discussion of the law and legal discourse of a specific disaster. All three chapters then end with a return to the realm of what is ordinarily assumed to be normal or everyday law.

I have arranged the chapters of the book in this way in order to emphasize the continuity between everyday law and law in crisis—to demonstrate the extent to which one seems always to serve as the endpoint to the other. There is a second sort of continuity that this arrangement suggests, however—and that is the continuity among legal, cultural, political, and literary texts. As each of these texts gives way to the other, the boundaries among them become difficult to discern. Moreover, the reason for this imprecision, I argue, is that each serves the same fundamentally *legal* purpose. Whether we are talking about the liberal citizen-subject of social contract theory, or the subjected self of critical theory, a (and perhaps *the*) fundamental purpose of law is the production of a political being⁸⁸—and it is toward the production of this political being that these texts all tend. When I say, therefore, that cultural or literary texts are as much a part of law as legal doctrine is, this is not just because law operates within a cultural context, or because something called “law” is “entwined” with something called “culture.”⁸⁹ More so, it is that each—the poem, the pamphlet, the code, and the statute—does the same, and the same quite specific, work in determining political subjectivity.

To that extent, it is not only reasonable to suggest that “disaster law” consists of both legal doctrine and cultural or literary texts, but it is perhaps irresponsible *not* to do so. It is after all only by following the crisis from its appearance in the trials of contractors or looters, to its appearance in newspaper accounts of these trials, to its appearance in the shattered responses of the populations who follow these media accounts that the multiple meanings and effects of disaster law become clear. It is only by looking simultaneously at the military or camp regulations legislated in the aftermath of disaster, at the building and rebuilding plans that draw on these regulations, and at the demographic studies that populate and repopulate these plans, that the strange continuity of what is supposed to be a unique, ad hoc legal response to crisis begins to make sense. This, then, is why I understand the poem or the pamphlet to be as effectively legal as the case or the statute—because all of these texts are part of the same political process, equally fundamental to the production of the political subject.

The problem, however, is that this political process is by no means a straightforward one—especially when the subjects of disaster law are, as I suggest, ecstatic, shattered, and far removed from the bounded, autonomous citizens of liberal theory. Indeed, there is a circularity in the relationship between the subject in ecstasy and the elaboration of disaster law that will become increasingly apparent as my argument progresses. I do not try to dispel that circularity here or elsewhere in this book. I do, though, address it briefly and explain in more detail how it helps to formulate both ecstatic subjectivity and the politics of disaster.

My contention that the law of disaster both assumes and produces a subject in ecstasy is a problematic one. If law assumes a subject, then that subject must already exist; if law produces a subject, then that subject cannot have already existed. The contradiction is obvious and becomes only more so when we add that the ecstatic subject is likewise both defined by the disaster and makes the disaster politically intelligible. This circularity—or contradiction—however, is by no means unique to my own take on law and subjectivity. It is rather a question that has motivated a great deal of recent political theory and that has inspired a number of responses, especially since the 1980s.

Since my interest here is not to take on or to resolve this contradiction, but rather to explain how it affects my own argument, I address only one of these responses here. Regardless of their methodological approaches, many twentieth-century political philosophers started with the notion that neither the assumption nor the production of the political subject was a single, discrete act. Rather, they argued, the relationship between law and the political subject was an iterative one, each constantly producing and assuming the other. In liberal theory, this process was articulated via various theories of consent—the unique act of hypothetical consent to the social contract giving way by the end of the nineteenth century to the repeated, tacit acts of actual consent that represent daily life in a liberal state.⁹⁰ Psychoanalytical theorists—recognizing the violence implicit in this repetition—reformulated the relationship between law and subjectivity as a traumatic one, the political subject's compulsive dependence on law for symbolic existence described as hysterical and sometimes even pornographic.⁹¹ Critical theorists developed increasingly sophisticated theories of interpellation, noting in particular the guilt that must underlie such repeated, consensual acts of subject formation.⁹² In general, that is, the relationship between law and the political subject was necessarily circular, necessarily contradictory, and necessarily ongoing.

In this sense, therefore, the circularity involved in the production and assumption of the *ecstatic* subject of disaster law is by no means unique—and I situate my analysis of these processes within a well established, preexisting field of literature. At the same time, however, the fact that I focus in particular on disaster law and in particular on the ecstatic subject does raise some additional issues. First of all, disaster law is by definition something unique, discrete, and even accidental, whereas the law described by the theories above is supposed to be continuous, repetitive, and deliberate.⁹³ Second, according to my analysis, disaster law produces and assumes the subject in ecstasy precisely in order to make the disaster intelligible. This supplementary function of the political subject requires some explanation.

With that in mind, I return now to my point that gender studies or feminist theory methodologies are the most effective means of describing disaster law. The continuity between ordinary law and law in crisis is not new to feminist theory. As Braidotti argues, many critical theorists have sought in the supposed feminine their desire for a crisis of metaphysical, political, and legal structures.⁹⁴ As Carole Pateman argued some years earlier, many liberal theorists likewise *feared* in the supposed feminine the *threat* to metaphysical, political, and legal structures.⁹⁵ It can indeed be argued that as ordinary law has increasingly come to be viewed as law in crisis, women have in actuality become the neutral or normative figures of this metaphysical, political, and legal crisis.⁹⁶ It is this gradual materialization of what was once thought to be a metaphorical disaster, then, that gender studies methodologies can help to describe—this gradual movement from the ongoing subject formation of the everyday to the ongoing subject formation of the crisis. In the chapters that follow, it will become clear that far more often than not, the concrete realization of the subject in ecstasy—the actual citizen involved in the repetitive and circular process of ecstatic subject formation—is first and foremost a gendered subject.

That being the case, the interaction between ecstatic subjects and intelligible disasters is an interaction very much also embedded in feminist theory. Just as gender studies methodologies have been indispensable to describing the theoretical relationship between the field of the intelligible and the nonfield of the unintelligible,⁹⁷ they will be equally indispensable to describing the concrete relationship between the intelligible disaster and the unintelligible subject in ecstasy. When I say, therefore, that disaster law—defined, again, as simultaneously legal, cultural, political, and literary—assumes the subject in ecstasy in order to endow the di-

saster with meaning, I am making a distinct, specific claim, situated in feminist methodology: I am arguing that the disaster becomes a politically viable event at precisely the moment that *all* subjects become not just gendered, but *unthinkably* gendered. The assumption and production of the ecstatic subject of disaster law, that is, involves precisely the negation and the unraveling of this subject.

It is for this reason that I have brought together in this section three seemingly disconnected issues—my working definition of “disaster law,” my brief analysis of subjection and subjectivation, and my claim that feminist theory methodologies are essential to any analysis of disaster law. Although not immediately relevant to one another, each gets at a key aspect of the assumption, production, negation, and unraveling of the ecstatic subject. By defining disaster law broadly, as the product not just of legal doctrine but of literary and cultural texts, I recognize that the political field of the intelligible can only be defined through the interaction of *multiple* discourses. By acknowledging the circularity of the legal and political relationship, I situate disaster law and its ecstatic subjects within a well established, existing literature. And finally, by describing the subject of disaster law as a subject specifically relevant to feminist theory, I shift my study into the methodological realm with arguably the most potential for radically rethinking these interactions and relationships.

Historical Context and Chapter Outlines

Throughout this introductory chapter I have drawn in an impressionistic way on descriptions of a number of different disasters. I have also cobbled together a variety of theoretical discussions of crises, exceptions, and subjects beside themselves. Over the remainder of the book, I ground these theoretical analyses within a more detailed history of four major case studies: the 1894 Istanbul earthquake, the 1906 San Francisco earthquake, the 1923 Tokyo-Yokohama earthquake, and the 1999 Istanbul/Marmara earthquake. Readers may be taken aback by the case studies I have chosen, and particularly by my privileging of the (repeated) destruction of Istanbul. Rather than writing a further section in which I explain or defend my choice of case studies, however, I instead relate a paragraph from a work that deals with similar political issues.

I have not respected the academic division of labor between area studies and the disciplines. I offer no modest apologies for this. Europeanists universalize European

milieus and experiences all the time. Instead of provincializing Europe, I have attempted a necessarily provisional universalizing of one corner of postcolonial Asia. Humanity (and theorizing about it) is, after all, an interminable work of collaboration and comparison.⁹⁸

Needless to say, I write under the same assumptions.

At the same time, I note that these disasters and the narratives surrounding them are all unique and specific to their chronological and geographical contexts. They also, however, share key similarities, especially with regard to the legal and political responses that followed them and the legal and political subjects demanded by these responses. Each, I suggest, produced a political context in which the ecstatic or eccentric subject became the norm. And each invoked the subject in ecstasy as a means of endowing the disaster with meaning.

As for the usual facts and figures that accompany histories of destructive earthquakes, the first Istanbul quake occurred at 12:24 on Tuesday afternoon, July 10, 1894. It consisted of three major shocks, lasting thirteen seconds, and would have measured around 7 on the Richter scale. The epicenter was in the Sea of Marmara, eight kilometers from the shore of the European side of the city. According to official figures, 138 people were killed, but likely many more than that lost their lives, and hundreds of houses and public buildings were destroyed.⁹⁹ The San Francisco earthquake occurred at 5:12 on Wednesday morning, April 18, 1906. It consisted of a number of shocks lasting forty-five to sixty seconds, and would have measured between 7 and 8 on the Richter scale. The epicenter was about three kilometers offshore. According to official figures, 375 to 478 people were killed, but, again, the estimates as to the actual death toll are much higher. Tens of thousands of homes and public buildings were destroyed in the quake and in the fire that followed it.

The Tokyo-Yokohama earthquake occurred at noon on September 1, 1923. The shocks measured 8.3 on the Richter scale. The epicenter was in Sagami Bay, southwest of Tokyo Bay. At the time, an estimated 100,000 to 140,000 people were killed in the quake and in the fires that followed. The city of Yokohama was completely burned, and in all over a billion dollars worth of property was destroyed. Finally, the second Istanbul earthquake (the Marmara quake) occurred at 3:02 in the morning on August 17, 1999. The first two shocks lasted thirty-seven seconds, and the largest measured 7.4 on the Richter scale. The epicenter was seventy kilometers south of Istanbul in the gulf of İzmit. An estimated 15,000 people died, and 600,000 were left homeless in the months that followed.

I provide these figures less because they will be important to my later analysis than because this is the sort of information that is expected in discussions of disasters of this kind. Again, though, my particular interest in this book is not so much what happens during or after a disaster as what defines the disaster in first place—and what sort of subject is at the heart of this process of definition. As a result, the book is divided into four major chapters, each of which addresses one aspect of subject formation during moments of crisis. Chapter Two consists of a literature review of both historical and contemporary writing on disaster. In it, I address, first of all, the meaning of earthquake metaphors in political speech—what happens to the disaster, that is, when revolutions, rebellions, and economic crises are explained via recourse to the “convulsions of the earth.” I then turn to historical discussions of actual earthquakes and how these have drawn on this political rhetoric. Finally, I discuss the concerns of contemporary scholars of catastrophe studies—and the various tropes and events that they invoke in order to make disasters understandable.

Chapters Three and Four engage with ecstatic life and ecstatic death as they have been defined by the law and politics of disaster. In Chapter Three, I complicate the story of postdisaster blood transfusions, organ transplants, and disease prevention measures by arguing that each is as much a means of articulating the subject in ecstasy as it is a means of providing sanitation and security to the self-conscious, bounded subject. Framed within an analysis of U.S. Judge Benjamin N. Cardozo’s historic 1914 decision on the right to bodily integrity, this chapter suggests that these various “gifts of life” are methods of physically and bodily manifesting citizens in pieces—citizens quite physically beside themselves. Chapter Four concerns itself primarily with the repeated, if counterintuitive, granting of rights to dead bodies during moments of disaster—with the reiteration, for instance, of the right to property and the right to bodily integrity possessed by the respectable dead citizen, and the suspension of the right to life forfeited by the living looter or “ghoul.” Addressing the postdisaster rhetoric of death tolls, democracy, and decomposition, this chapter describes one functional process by which the dead body—a disintegrating body almost proverbially in ecstasy—becomes the norm of disaster law.

Chapter Five turns to the spaces defined by the law and politics of disaster—and particularly the extent to which these spaces become ecstatic backdrops for the articulation of ecstatic subjects. Contextualized within a discussion, first, of Henri Lefebvre’s critique of capitalist or fascist space, and second, of Achille

Mbembe's critique of postcolonial space, it addresses the ways in which unitary, sovereign spaces can become fractured, distorted, and thus definable by the law of disaster. Drawing on the tropes of the camp, the cemetery, and the demolished monument or public square that appear in postdisaster narratives, I suggest that each of these areas is a deliberate political construction, each is key to demonstrating the truth or reality of the disaster, and each is fundamental to the production of subjects beside themselves.

Finally, in Chapter Six, I return to the arguments that I outlined above. First, I elaborate on the notion that the disaster or crisis has in many ways become the legal and political norm. I then make the case that understanding disaster as the endpoint to law may be the most effective way to address the inconsistencies (and violence) associated with contemporary disaster response. In the end, I return to feminist theory as both a means of addressing and a means of redefining disaster law, subjects of disaster, and disaster response in the twentieth and twenty-first centuries.

Conclusion

Although I have not addressed it explicitly, this book is clearly indebted to the past decade of work on the everyday or day-to-day. As the line between the extraordinary and the day-to-day has been blurred, and as politics, violence, and subject formation have been gradually reframed within the overlapping spheres of the exceptional and the normal, disaster has become a prominent topic of debate and discussion. In so many ways singular, and yet in so many ways the norm, the disaster—and particularly the natural disaster—represents an intersection between the political violence of daily life and the political violence of the unexpected. My intention throughout this book is to keep both approaches to subject formation in mind. As a subject of disaster law, the ecstatic subject is simultaneously a product of the day-to-day and a product of the emergency. As the subject who endows the disaster with meaning, the ecstatic subject is likewise both the aberrant and the norm. At the same time, however, these dual roles are by no means paralyzing—representing as they do a possible way out of the confusion that is and has been a part and parcel of the law and politics of disaster.