The Mourning After: Crisis, Law, Politics

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On Wednesday 9 November 2016, the day after the 58th quadrennial American presidential election, the world awoke to find that Donald Trump had been chosen as the country’s 45th commander-in-chief. The following days were marked with emotional devastation from liberal and even left-leaning conservative constituencies not only in the U.S.A., but the world over, for fear and sadness over the premise of this newly authorized demagogue and the voters that vested him with such power. Trump’s unexpected win caused an affective tsunami for smug spectators, who presumed Hillary Clinton would clench the throne, and this, approximately five months after another fateful night whereby voters in the United Kingdom, much to the surprise of observers, chose to exit the European Union in a historic national referendum. Both events gave a large subset of the global population a brief, collective interest in a legal–political equivalent to “Plan B: The Morning After Pill”.

This paper explores the temporal narrative—waking up one day to a world “turned upside down”—that bolsters such strong, and incredulous reactions to these events. My inclination is that this trope evinces deeply liberal mythologies of the social contract that turn on an underlying fantasy of law’s violence as otherwise—in the “regular world”—occasional, measured, and well-deserved. Drawing on the work of Bonnie Honig, I argue that the affective experience of disjuncture between liberal–capitalist–imperial democracy with a human face, and liberal-capitalist-imperial democracy with a “Make America Great Again” hat, offers timely reflection for both legal theorists’ and their investment in law’s saving power, as well as cynical activists and their presumption of law’s inescapable harm.

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