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Derrida's Kafka and the Imagined Boundary of Legal Knowledge

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Abstract

This article raises the critical issue as to why there has been assumed to be a boundary to legal knowledge. In response to such an issue I focus upon the works of Jacques Derrida who, amongst other things, was concerned with the boundary of the disciplines of Literature, Philosophy and Law. The article argues that the boundary delimits the law as if the inside of a boundary to territorial-like legal space in legal consciousness. Such a space is not possible without the boundary. Derrida's most insightful essay in this regard is his study of Franz Kafka's untitled parable in *The Trial*. The parable represents a man who waits for an invitation to enter the Law until he nears his end. Derrida responds to the parable in his essay, "Before the Law." This article uses the parable and Derrida's response to it as a starting-off point for a reconsideration of the boundary of legal knowledge. In this context, Derrida asks this question: "why is Kafka's parable categorized as Literature or Law?" Such an issue depends upon the boundary of a discipline, according to Derrida. And that focus, in turn, asks whether the boundary pre-exists any text which is represented as "Literature" or "Law" or "Philosophy." This article claims, however, that Derrida's theory presupposes that law, as a discipline, encloses a territorial-like space in legal consciousness. Each discipline possesses such a space. So too does the state and the university. Inside this bounded space, officials of the Law are free to consciously deliberate, reflect, and render decisions about the context of the Law. Analytically and phenomenologically before the boundary is taken for granted in an academic discipline, however, there is an unbounded non-law. The *aporia* of Derrida's theory of the boundary of the Law is that the official or expert knower of the official language inside the boundary cannot assume the imagined boundary of legal knowledge without implicitly claiming to know the exteriority to the boundary. And yet, officials and expert knowers cannot know such an exterior extra-legality because, by virtue of the boundary as encircling a territorial-like space, knowledge is considered legal only when it exists inside the boundary. "The Law" is the consequence of the imagination of the expert knowers of the language as well as of the non-expert who believes in the bounded territorial-like space.

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Jacques Derrida poses a fundamental question concerning the nature of legal knowledge. He asks whether it is possible for one to ask fundamental questions about the nature of law as a discipline as opposed to other disciplines such as Literature or Philosophy. The clue to Derrida's response concerns the boundary of any discipline and, in particular, the legal discipline. The boundary sets the limit of legal language. If one finds oneself outside the boundary, one is a stranger to the Law as a language. So too, the boundary forecloses examination of issues, texts, evidence or arguments which are said to dwell outside the boundary. As one commonly hears from law deans and law colleagues, certain issues, texts, evidence or arguments belong to "Philosophy" or "Literature" or "Law and Society." I wish to examine the nature of the boundary of legal knowledge in an effort to better understand my own discipline though I have too commonly had my own day-to-day efforts excluded as extra-law. The clue to my effort is that Derrida postulates a boundary which delimits law as a special sense of legal space. I shall address such a postulate in his works, shared as it is with others, and I shall work out the ramifications and problems of such a postulate for Derrida as for our contemporary understanding of the nature of law.

Derrida's most insightful essay in this regard is his study of Franz Kafka's little untitled parable in *The Trial*.[1] Derrida calls his essay, "Before the Law."[2] I shall retrieve the parable in section I of my effort. In section II, I shall outline Derrida's theory as to the nature of the boundary of the Law by turning to his interpretation of Kafka's parable. In Section III, I shall highlight how such a boundary encloses a territorial-like space in legal consciousness. In Section IV, I argue that Derrida shares such a belief in a territorial-like space with contemporary interpretations of Kafka's parable. Section V argues that from the standpoint inside the boundary, the gate-keeper and expert knowers of the legal language imagine the Law as the inverse of their institutional self-image. In Section VI I argue that the imagined boundary is a-temporal and therefore arbitrary. I conclude with an *aporia* coloring Derrida's interpretation of Kafka's parable about a man from the country.

1. The parable is untitled although it has been named by various commentators, translators and publishers as 'Before the Law', 'The Man from the Country', 'The Parable of the Man from the Country', 'The Gate-keeper' and perhaps other titles. References to the parable in my text defer to the translation in Kafka's *The Trial* (New York: Schocken Books, 1968 [1937 in German]), pp. 212–15. The parable can also be found as 'Before the Law' (trans by Willa and Edwin Muir) in *Franz Kafka: the Complete Stories*, ed by Nauum N Glatzer with a Foreward by John Updike (New York: Schocken Books 1971), pp. 3–4.
2. Derrida, 'Before the Law' in *Acts of Literature* ed by Derek Attridge (New York, London: Routledge, 1992), pp. 183–220.

I. Before the Law

In Franz Kafka's little parable, a man from the country ventures to the Law to search for a legal remedy for harm he experienced back home. Just before the parable is recounted, K, hitherto overwhelmed by his own experiences before the law, is stunned that legal officials do not recognize his personally experienced events as elements pertaining to the Law. When K turns to a priest for advice – the priest himself an official of the Law – K rhetorically exclaims that "these are only my personal experiences." What is crucial for my argument is that the priest simply ignores K's exclamation: "[t]here was still no answer from above" (211). Why does the Law not respond to K's personal experiences? Why does the man from the country seek access to the Law if not for a recognition of his personally experienced harm?

The man from the country can only imagine or, better, rely upon the official's (the gate-keeper's) recounting of what others have said about the center of the Law. The closer one accesses the center, the gate-keeper reports, the more violent is the Law. To add to such reported violence by the Law, the man from the country, like K, is shocked to experience that he is never recognized as a legal person by the Law. This lack of recognition is manifested by the absence of any invitation by legal officials for the man to enter the Law. Without such recognition, the boundary of the Law remains enforced and yet, mystically autonomous in character and origin.

The boundary of the Law even remains autonomous of the gate-keeper. The gate-keeper stands with his back turned towards the boundary of the Law. The gate-keeper, that is, does not perceive the boundary of the Law. Instead, the gate-keeper and the man face each other as if the Law were autonomous *vis-à-vis* each of them and their personal experiences. The gate-keeper, whom I interpret as a lawyer, guards "the Law" although he admits that he really does not know what is inside the law. He can only report what others inside the doorway have said about the Law. The man from the country, for his part, learns that each complainant has only one door into the law. The gate-keeper privately exhibits a humane attitude towards the man by offering him a chair.[3] The door to the Law remains open. The gate-keeper, though, discourages the man from entering through the doorway until a formal or informal invitation is offered. Against his initial expectations in the formal accessibility of the Law, the man passively waits for an invitation to be heard and, as he waits, he becomes weak and frail, eventually "nearing his end" after he waits his years on the chair (214).[4] Just before his end, the gate-keeper announces that "[n]o one but you could gain admittance through this door, since this door was intended for you. I am now going to shut it."

The interminable question about the Law remains. Why would the officials inside the doorway maintain an open door just for the man from the country and then, close the door without inviting the man to cross the threshold into the Law's inner sanctum?

3. One must presume that the gate-keeper also offers him bread and water – perhaps food – as we learn that the man stands and then sits before the law until he nears his finite end. He could not live very long without bread, water and food.
4. Actually, Kafka does not say that the man dies. Rather, Kafka says that "the man is nearing his end and his hearing is failing."

Without being invited, the man from the country is unrecognized by the Law. Without being so recognized, the man from the country tries to access the Law as a stranger to the Law. The man experiences a life of waiting as such a stranger.

The man from the country comes before the Law as if the Law pre-existed the man's experienced event in the country. After all, one might expect, why would he have tried to access the Law if the Law did not pre-exist the harm to the man in calendar time and physical space? The man presumably waits for officials to apply rules and other cognitive standards to "the facts" about the man's having been harmed in the country. The man's previous experience of having been harmed does not cause the Law or its officials to act. Nor does the man actively take over the Law – rather, the man passively accepts the Law's authority and the Law's invitation to enter. The man does not impose his will upon the gate-keeper nor upon the officials inside the doorway. Why does the man from the country passively and patiently defer to the Law? Does one's response to this question rest in the nature of the Law itself? Or does one's response lie in one's image about the Law? I now wish to suggest the latter. The boundary of legal knowledge depends upon an image of the Law as space.

What needs emphasis at this point, however, is that the man has come to the Law with a cluster of beliefs about the Law. This cluster of beliefs manifests what is taken for granted in a liberal legal system. And yet, it is just such a cluster of beliefs which seems to be undermined in the man's effort to access the Law. We have learned early-on that a series of intriguing obstacles have prevented the man from the country from accessing the Law: "these are difficulties which the man from the country has not expected to meet" (213). What were the man's cluster of beliefs which induced his difficulties?

First, one is assured that everyone, including the man, accepts the legitimacy of the law: importantly, "the Law, he thinks, should be accessible to every man and at all times" (213). As explained, "everyone strives to attain the Law" (214) and, again, there is "access to the law by everyone at all times," or so it is believed (215). This claim about "everyone" suggests that the Law or a discrete law universally applies to everyone within its boundary. The man expects that the universals in the law will be applied to everyone falling inside the boundary of each universal. Such universals contrast with the man's personally experienced contingent events. There is always the possibility that the man's experiences about the Law will fall outside the boundary of the universality of a discrete law or outside the discipline Law in general. Indeed, the parable raises the prospect that anyone's experienced events might fall outside the boundary of the Law as a discipline. This may be so in that the universality of the Law is only possible if it is purged of the singularity of socially and historically contingent experiences.

The man from the country experienced a second belief: namely, that the Law would be impartially administered. K. for example, shares his trust in the priest's "good intentions" as an official of the court (213). No extraneous experiences of the man must influence the gate-keeper. We learn, in particular, that "the questions are put quite impersonally" (214). The gate-keeper's own sense of the impersonal application of the Law induced him to hesitate before accepting a bribe (214). The Priest, as a source of authority, had earlier felt constrained from taking a bribe.

Third, we learn that the Law is founded in objectivity. For one thing, the parable recounts how the Law is found in texts. Mindful of one's own legal training and one's

reading of contracts and treaties today, the priest suggested that K is being deluded by his expectations about the Law and about the role of the priest her/himself. Instead, the priest cautions that one must pay particular attention to the exact words of texts: "I told you the story in the very words of the scriptures" (215). The texts lack any mention of delusion about the law: "there's no mention of delusion in it." Indeed, the priest scolds K that "[y]ou have not enough respect for the written word and you are altering the story." Although shared beliefs, values and convictions may well be admittedly incorporated into the law, the priest seems to indicate that the most seemingly minor writing in a text must not be ignored. What seems textually contradictory may actually be rationally coherent when minor texts are incorporated into the whole, we learn. More generally, objectivity lies behind the priest's caution that one must justify one's opinions and provide empirical support for any generalization about facts: "[d]on't be too hasty, don't take over an opinion without testing it." Against the background of the priest's admonitions, the man from the country must believe that the Law is objective, located in texts, rationally justifiable and separate from the complainant and jurist-reader alike.

Fourth, the man from the country expects that the legitimacy of the Law rests in some final Source. Such a Source functions as the referent of justifying the application of the Law to the man's alleged harm. The man from the country, for his part, is enclosed in "darkness." But inside the doorway of the Law, "a radiance … streams indistinguishably from the door of the Law." Of course, sunlight (that is, the radiance) has traditionally represented Truth in European thought. The Law, with its source of radiance, is imagined to be metaphysically higher than the beliefs of the mere gate-keeper and man from the country alike. Kafka adds that such "radiance," like the sun, emits "indistinguishable" laws. How are the laws "indistinguishable"? The door to the Law is always open. Each complainant has a door. As such, the man seeks to have the law intellectually enclose the man's report of his formerly experienced harm. After all, this harm caused him to journey to the Law.

In sum, the legal culture in which the man finds himself has inculcated beliefs in access to the Law, the impartiality in the administration of the law, equality before the law, the universality of rights, the pre-existence of the Law, and the association of the legitimacy of the law in some one ultimate Source radiating from inside the Law. Such principles are often associated with legal formalism. And yet, throughout his waiting period, the man's expectations were frustrated.

Most importantly, in this regard, the man from the country and the gate-keeper expect that the Law exists prior to the man's experienced events. Unlike Kafka's other stories about the castle and the prison colony, Kafka's parable does not describe the Law as if it were a physical structure such as the castle. That said, before his grievances can be heard, the man must be invited through the doorway which, after all, implies a physical opening to a physical structure. Despite the fact that the Law has trumped the man's singularly experienced events in the country, the man's continual wait takes form before the Law in time and space. The instance of the harm caused to the man as well as the instance of the man's experienced world before the Law remain outside.

As a consequence, when one considers the cluster of beliefs as a whole, the man's experiential world cannot possibly access the Law. The man stands before the Law as an outsider to the Law. His complaint is never heard. He is neither a legal nor an illegal

person. The harm previously caused to him is neither legal nor illegal. Nor is his experience in gaining access to the Law legal or illegal. His context-specific experienced events are a left-over to the language of the Law because they remain unsignified and therefore unrecognized inside the boundary of the legal space. Both before and after the door is closed, the man from the country, as a human subject, just does not exist as a legal person with all the rights and duties of a legal person. This is so despite the fact that his expectations had constituted his image about the Law. He had imagined the Law as separate from himself and his experiences. And yet, it is his expectations about the law which, when frustrated causes his continual suffering. His wait meets with the silence of the Law's officials and with the Law generally. His unrecognized experienced suffering remains a 'left-over' from the Law.

That said, the Law had emanated from his own cluster of beliefs. As the priest acts while reporting the parable, "He allows the man to curse loudly in his presence the fate for which he himself is responsible." The man alone is responsible for his inability or unwillingness to enter through the doorway. As the priest reminds one,

> The man from the country is really free, he can go where he likes, it is only the Law that is closed to him, and access to the Law is forbidden him by only one individual, the door-keeper. When he sits down … for the rest of his life, he does it of his own free will; in the story there is no mention of any coercion. (218)

The constraint facing the man from the country is his own imagined cluster of beliefs to which I referred a moment ago. Why? Because the Law, I am arguing, is the product of the man's (and the gate-keeper's – and perhaps Kafka's) imagination. Such an imagination had portrayed the Law as if it had its own history and as if autonomous of experienced events. The man's experienced events, though, had possessed their own unaccessed experienced past before the law had taken form. In a sense, the man's own expectations about the Law were exceedingly violent towards the man's own body as he waited for the invitation.

The Law, as autonomous of the man, was the product of the man's imagination. The man could not access his own expectations about the Law. The clue to this arose from a paradoxical situation. The gate-keeper and the man believed that the law was separate from the man's experienced events. Such a separation represented a deep rupture between the law and the man. The boundary delimited an inside from an outside, law from extra-law, law from lawlessness, legal persons from non-persons, the Law from other disciplines such as Philosophy and Literature. And yet, this pervasive boundary – so important to the metaphysical as well as the physical structure of the Law – had an imaginary character to it. Derrida acknowledged it as the product of the imagination.[5] Derrida is not alone. The Law is generated from a fable or myth, as contemporary jurists admit.[6]

5. Derrida, "Before the Law," p. 199.
6. See e.g. John Gardner, "Why Law Might Emerge," in Luis Duarte D'almeida, James Edwards and Andrea Dolcetti (eds), *Reading HLA Hart's Concept of Law* (Oxford: Hart, 2013), pp. 81–96; *Law as a Leap of Faith* (Oxford: Oxford University Press, 2012), pp. 1–18, 67–74; John Finnis, "On Hart's Ways: Law as Reason and as Fact," in *The Legacy of H.L.A. Hart* (Matthew Kramer, Claire Grant, Ben Colburn and Antony Hatzistavrou, eds) (Oxford: Oxford University Press, 2008), pp. 3–27.

The imagined character of the Law emerges from the belief that the Law only exists inside a space "out there" separate from the man and the gate-keeper. But in order to imagine such a space, the space had to possess a boundary. In order to imagine such a boundary, the officials inside the doorway had to know what experiences the man was encountering on the other side of the boundary. The jurists had to understand the man's earlier suffering, which had caused him to come to the Law, as well as his suffering while waiting to be invited into the doorway. The jurists had to understand the harm caused by their own silence to the man's experiences. They also had to understand that the Law was the product of their own imagination. In order for the boundary to exist in one's imagination, the priest, gate-keeper and other officials inside the doorway had to know what exists on either side of the boundary. How else could the jurists know that the Law was autonomous of the contingent experiences of the man from the country if they did not know what was on the other side of the boundary? The problem is that the boundary delimited what a legal official could claim to know as law. As such, the officials just could not know the original harm to the man nor could they know the harm caused by the Law's silence to the man's suffering as he waited for recognition from the Law and its officials. That knowledge was only possible through the signifiers of the official legal language. The man, the gate-keeper and expert knowers inside the boundary had to know what they could not know by virtue of the boundary to legal knowledge.

II. Derrida's Outline of the Nature of the Boundary

Now, the big question concerns this: "why did the man (and the gate-keeper) believe in the boundary of the Law?" This question links with Derrida's concern in "Before the Law." Derrida responds to the issue by asking "why is the parable considered 'Literature' rather than some other discipline such as 'Law' or 'Philosophy'?" As he presses with this issue, he begins to ask the question "what renders the Law a discipline?" Both questions hinge upon the nature of the boundary of the legal discipline.[7] The clue to Derrida's response to the issue concerns Derrida's sense of the nature of legal language. Language, Derrida explains in his earlier works,[8] exists by virtue of configurations of signifiers. A signifier is negative in that it differs from another signifier. The gap between the differentiating signifiers "offers room for *rhetorical* effects which are also political strategies," Derrida explains in *Politics of Friendship*.[9] So, for example, Kafka describes the gate-keeper in a way which the few utterances of the gate-keeper are open to interpretation: "These are difficulties the man from the country has not expected to meet" (213). Yet, the man from the country cannot understand why he remains unrecognized by the Law.

7. Derrida, "Before the Law," p. 208.
8. Derrida, *Edmund Husserl's Origin of Geometry: an Introduction*, trans with a Preface and Afterword by John P Leavey (Lincoln, NE and London: University of Nebraska Press, 1989, 1978 [1962 in French]; *Speech and Phenomena and other Essays on Husserl's Theory of Signs*, trans with Intro by David B Allison; Preface by Newton Garver (Evanson, IL: Northwestern University Press, 1973 [1967, 1968 in French]); *Positions* (published in French 1972, in English 1981).
9. Derrida, *Politics of Friendship*, trans by George Collins (London and New York: Verso, 1997 [1994 in French]), p. 103.

In like vein, the differentiation of signifiers separates the knowers of the signifiers from the man from the country. Signifiers themselves highlight the claimants of contemporary legal knowledge: the lawyer's immaculate black gown or black suit (black assimilating all competing signifiers), her/his head protruding from the black gown/suit, her/his gestures, court-room rituals, the physically higher chair of the judge, and the code-words in the motions, arguments, and evidence. Language is doubly exclusionary: first, the preoccupation with signifiers excludes what are signified – that is, the rules, principles and other intelligible standards signified by the signifiers; and second, the focus upon signifiers excludes pre-intellectual acts of meaning embodying the signifiers. Not surprisingly in the light of his *Speech and Phenomena* and *Of Grammatology*, Derrida's interpretation of the parable takes both exclusions as elements of language.[10] And the key to his understanding of this exclusionary element of language, I shall argue in a moment, is his adoption of territoriality as the basis of legal knowledge.

I The Boundary of the Law about the Law

Derrida's interpretation of Kafka's parable, to begin with, claims that a legal structure – whether of civil institutions of the state or of the differentiations of signifiers – must have a boundary in order for the structure to exist. In this regard, the discipline of "Law" – and here he likens "Literature" and Philosophy to "the Law" – possesses a boundary.[11] A boundary originates the language of the Law.[12]

I have argued above, however, that the man from the country imagines a separation of the Law from his experienced event of harm in the country as well as the event of his waiting to be recognized. The boundary guides and protects the expert knowers inside the boundary of the Law. The boundary excludes those who lack a knowledge of the Law. In this regard, the man is not a minority as we assume today about contemporary discrimination.[13] Gender, race, ethnicity, and class do not qualify one to be an outsider for Kafka. Rather, the outsider lacks knowledge of the signifiers familiar to the officials inside the boundary of the Law. As Derrida says

> Perhaps man is the man from the country as long as *he cannot read*; or, if knowing how to read, he is still bound up in unreadability within that very thing which appears to yield itself to be read.[14]

The person who cannot read law is one who can read in her/his own natural language but one who does not understand the differentiating signifiers inside the boundary of the official legal language.

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10. Derrida, *Speech and Phenomena; Of Grammatology*, trans by Gayatri Chakravorty Spivak (Baltimore, MD and London: Johns Hopkins University Press, 1974, 1976 [1967 in French]).
11. Derrida, "Before the Law," p. 208.
12. Derrida, "Before the Law," p. 199.
13. This point is raised by Douglas E. Litowitz in "Franz Kafka's Outsider Jurisprudence," *Law & Social Inquiry* 27(1) (2002), 103–37, 105.
14. Derrida, "Before the Law," p. 197. Emphasis added.

In a sense, Derrida says, the boundary of the discipline of the Law is "invisible."[15] The boundary cannot be seen nor perceived. It is impossible to touch, feel, or experience the language about the boundary – the language, again, being differentiating signifiers. Nor is there an author or creator of the boundary:

> It is not a woman or a feminine figure … Not yet is the law a man; it is neutral, beyond sexual and grammatical gender, and remains thus indifferent, impassive, little concerned to answer *yes* or *no.* … It is neuter, neither feminine nor masculine, indifferent because we do not know whether it is a (respectable) person or a thing, who or what.[16]

One does not have "a cognitive rapport with it." The boundary is not the product of reflection, deliberation or of decisionism. "[I]t is neither a subject nor an object *before* which one could take a position."[17] The boundary, he continues, is "produced" as a "space of this non-knowledge." The space is empty – it is "invisible," he says again. No one accepts the boundary as an "in itself." No one experiences it as taking place: "an event without event, pure event where nothing happens."[18]

Derrida makes this same point in his *Politics of Friendship* when he emphasizes how a friend can only be imagined.[19] And, in this respect, one can only respect a friend by envisioning an empty space between oneself and the other.[20] Once one tries to define the friend in terms of one's own language, definition raises the possibility of war between the two friends.[21] Conversely, one's fusion with the friend imposes one's will onto the "friend" much as the Law can only recognize the stranger and, more generally, by recognizing the stranger as one of its own – that is, as defined by the familiar signifiers inside the boundary of the official language. In this respect, Derrida recounts how Plato describes the boundary or "limit" of knowledge as inaccessible.[22]

Such a boundary separates the judges, lawyers and law instructors from the outside, one configuration of signifiers from another. The signifiers inside the boundary represent the domestic and international legal orders. The inside invariably has to have an authorizing foundation or birth. And so, the common law defines the foundation of the modern state-centric legal structure as originating at a Critical Date. The Critical Date, a signifier differentiating the calendar time of the legal language from the pre-legal time of pre-European contact with indigenous and nomadic peoples, also separates the legal space from the pre-legal or non-legal space. Such a pre-legal or non-legal space is external to the boundary of the universals inside the bounded legal structure. This externality about the birth of the legal structure characterizes every form of ethnocentrism, racism, and nationalism, as Derrida points out.[23]

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15. Derrida, "Before the Law," p. 201.
16. Derrida, "Before the Law," p. 207.
17. Derrida, "Before the Law," p. 207. His emphasis.
18. Derrida, "Before the Law," p. 199.
19. See esp. Derrida, *Friendship*, p. 154.
20. Derrida, *Friendship*, pp. 252, 255.
21. Derrida, *Friendship*, p. 153.
22. Derrida, *Friendship*, p. 114.
23. Derrida, *Friendship*, p. 91.

The consequence, then, is that the legal language transpires inside the boundary of the language of the Law. The boundary functions as a rupture between the Law and the externality of the boundary. Derrida describes such a boundary in *Rogues* where he "aligned […] justice with disjointure, with being *out of* joint, with the interruption of relation, with unbinding, with the infinite secret of the other."[24] In particular, inside the boundary of the Law's structure, "the People" or legal officials communicate through chains of differentiating familiar signifiers. To this end, "the Law" inside the Law's structure must be "deciphered" or deconstructed as if a language.[25]

Now, this legal language involves significations (that is, representations) as opposed to pre-intellectual acts of meaning in "expression" as elaborated by Edmund Husserl. The language of the Law only exists inside the boundary. Significations do not and cannot signify the boundary. The boundary is "outside" the language inside the Law. And yet, the boundary is "inside" the Law in that it is recognized by "constitutional" configurations of familiar signifiers to the insiders. In a sense, the chains of signifiers of the official language inside the boundary are "authored" in that any particular signification is the product of reflection, deliberation and a conscious decision that this is the relevant rule and this rule applies to this set of "facts." If the boundary were signified, one of two possibilities would emerge: either the signification would lack a "trace" of familiar signifiers inside the boundary of familiar signifiers or, if signifiers represented a conceptual object, there would remain an "unwritten" boundary to the Law.[26] Without being signified in writing, the boundary is a "brutal severance," as Derrida puts it.[27] It is "brutal" because it is arbitrary. It is arbitrary because the boundary severs the state's language from the experienced past of the man from the country. In sum, no signifiers represent the boundary because only the signifiers inside the boundary can be signified.

The boundary, then, is not the product of signification by reflection, deliberation and decisionism. Lacking configurations of signifiers to represent the boundary, the boundary is "silent" or "unheard of," Derrida says.[28] This is so because

> we do not know what it is, who it is, where it is. Is it a thing, a person, a discourse, a voice, a document, or simply a nothing that incessantly defers access to itself, this forbidding *itself* in order thereby to become something or someone.[29]

24. Derrida, *Rogues: Two Essays on Reason*, trans by Pascale-Anne Brault and Michael Naas (Stanford, CA: Stanford University Press, 2005), p. 88.
25. Derrida, "Before the Law," p. 197.
26. See e.g. Derrida, *Monolingualism of the Other: Or, the Prosthesis of Origin*, trans by Patrick Mensah (Stanford, CA: Stanford University Press, 1998), pp. 40, 45.
27. In this regard, Derrida seems to contradict his earlier work where he claimed that (unwritten) expression, as opposed to writing, had a structure of differentiating signifiers – that is, that there was no "before" writing. See *Of Grammatology*, pp. 165–268; *Speech and Phenomena*; "Sending: On Representation," *Social Research* 49 (1982): 294–326.
28. *Monolingualism*, p. 67; "Before the Law," p. 208.
29. Derrida, "Before the Law," p. 208.

We cannot "know" the boundary as a concept, for example, because the signifiers represent other signifiers, not concepts, according to Derrida.[30] The boundary exists "before" any statute, treaty, precedent or other text ascribed to "the Law" in calendar time – even before the first written Constitution, before the colonial legal language, before the legal discipline that is. Inside the boundary of the structure, the analysis of a rule-concept aims to reach the boundary of the discipline and yet the boundary cannot be accessed. As Derrida explains in the "Force of Law," a concrete experience is a traverse of voyage to a destination.[31] The boundary lacks such a destination as well as a signification. As such, it is neither illegal nor legal.

In sum, the boundary of the Law as a discipline is a "dead-end" or "non-path." The boundary is a non-path because, although the boundary is so important for the very existence of the structure of the official signifying relations, expert knowers of the significations cannot access the boundary through the familiar chains of significations inside the legal language. The man (and presumably any official or expert knower of signifying relations), has to experience the boundary in order for there to be a legal language. The man from the country, after all, experienced the boundary, so apparent from his imagination of the boundary, as the crucial factor in his decision to wait for an invitation.

In contrast, the man's experience of the boundary was "the experience of what we [that is, judges, lawyers, legal instructors and other expert knowers] are unable to experience," as Derrida has put it.[32] As such, the expert knowers of Law's signifiers cannot access the extra-legal world outside the boundary of legal knowledge. Such an exteriority is "an experience of the impossible."[33] The boundary, which demarcates such an externality from legal signifiers, is "impossible" in that we expert knowers can only know the relations amongst signifiers inside the boundary of the language.[34] In this vein, in *Specters of Marx*, Derrida describes the exteriority of the boundary as the bodiless, soulless, unnameable and an invisible ghost beyond life and death.[35] Such an unsignifiable externality – unsignifiable, that is, from inside the boundary of signifying knowledge – is ghost-like.

2 The Belief in the Boundary

Now, against the above background of my retrieval of Derrida's argument so far, legal officials and expert knowers of the language, working and living inside the structural boundary of the official language, can only imagine the social life and the intentionality of the outsiders to the boundary. Since the boundary of the legal knowledge is neither

30. See esp. Derrida, *Origin of Geometry; Speech and Phenomena; Positions*, trans & Annotated by Alan Bass (Chicago, IL: University of Chicago Press, 1981); *Grammatology*, pp. 10–73.
31. Derrida, "Force of Law: the Mystical Foundation of Authority," in *Acts of Religion*, ed with Intro by Gil Anidjar (New York and London: Routledge, 2002), pp. 230–98, 244.
32. Derrida, "Force of Law," p. 244.
33. Ibid.
34. Derrida, "Force of Law," p. 197.
35. Derrida, *Specters of Marx*, trans Peggy Kamuf; Intro Bernd Magnus & Stephen Cullenberg (New York and London: Routledge, 1994 [1993 in French]), pp. 7–8, 45, 54.

legal nor illegal, the boundary of our legal knowledge is also imagined. The image is not a concept. But because our knowledge inside the boundary cannot be considered legal as opposed to extra-legal without such an image, the image is accepted as a "given."

I have argued above, however, that the imagined boundary of this seemingly natural product is shared by both the man from the country and the gate-keeper. If the man from the country had become self-conscious that the Law's boundary had been the product of his imagination, he would not have felt compelled to enter the Law. He might have actively or even violently responded to the gate-keeper's "not yet!" just as K might have actively responded to the priest's just as K might have actively responded silence when K had exclaimed "[t]hese are only my personal experiences" (211). The man and the gate-keeper, however, accepted the boundary of legal knowledge without question. The man imagined that the boundary is not of his own construction. As such, the man had to be invited into the Law. This explains the priest's preface to the parable: "Don't be deluded," the priest insisted (213). The imaginary character of the Law also explains why the priest later lectured that "the scriptures are unalterable" and, as such, "the comments merely express the commentators' despair" (217). The man's imagined boundary of legal knowledge transpires before the Law exists in calendar time and measureable space. In this regard, Derrida too insists that the legal space only exists after the boundary is imagined.[36] The boundary is imagined before any text, such as the parable, is described as "Literature." The same holds for any statute, judicial decision or founding "Constitution" to be considered binding as "the Law."

Put in more general terms, the pre-legal assumption about the boundary of the Law is the dominant element of our own epoch.[37] We have to believe in the boundary for there to be "the Law." We must believe that the boundary of our discipline has already happened even though the boundary has not actually happened except in our imagination. We believe that we must read a statute, treaty, judicial decision or "the Constitution" and we must believe that the Founding Fathers are actually gazing upon us as lawyers, as if the Founding Fathers were actual life and death intentional beings.[38] But Derrida presses the imagined world of jurists further by insisting that the boundary of the legal discipline itself is mere fantasy.[39] The Law thereby lacks an essence. Without one's belief in the boundary, the Law also lacks the legitimacy and the source to which "everyone strives to access."

The legal institutions, as a consequence, can hardly be said to possess a totality of legislative and judicial jurisdiction. We believe in the boundary as if the boundary cannot be changed. Such and such an issue, argument, evidence or text is said to be extra-law. We feel guided and constrained by the intent or spirit of the Founding Fathers even though we have imagined such Fathers as the authors of our boundary of legal knowledge. Our

36. Ibid, p. 64.
37. The clerking and internships of law students certainly help to assimilate the law student into the collective consciousness of the inside of the Law. The social function of a professional law school is to inculcate such assumptions and implied concepts about the boundary of the Law and its inside. All other disciplines, then, must be outside the boundary of the Law's wall.
38. Derrida, *Specters*, p. 101.
39. See esp. Derrida, *Specters*, p. 21.

imagined boundary is buried latent in our official chains of signifiers. We read texts as if they state the Law and we perceive social events as if "the facts" are more real than the singular events experienced temporally and spatially by an outsider in the non-Law. The Law, as a discipline, is imagined as existing analytically before the singular events. We imagine that the boundary protects and constrains any effort to delve beyond the singularly experienced events and signifiers. And yet, despite the fact that the boundary is imagined, the boundary forecloses the man from the country from denying that his language has existed before the Law exists in time and space. Today, we turn our thinking about the man's imagination into law committees, better known as courts, tribunals, government departments, and the administrative hierarchy of the "university." We believe so deeply in the boundary that we cannot question it as the product of our imagination.

The boundary of the structure itself is a matter of *belief*, Derrida emphasizes in *Specters of Marx*.[40] We just have to believe in the boundary of the structure for there to be the Law. The boundary lacks a social reality except to the extent that we believe in it. Without such a belief, the boundary lacks Founding Fathers. Without the belief, we cannot consider the Good or the Right as institutionalized in the Law. The man from the country desires to access the Law and yet, the image he desires to access is bounded by something of a fantastic character. As Derrida emphasizes, the access to the Law, as social-cultural content, is the forever deferred.

Derrida's Kafka has a message for contemporary lawyers and legal scholars. Too often, we exclude an issue, text, evidence or argument as extra-law. Officials and expert-knowers frequently signify the extra-legal as "political," "philosophy," or "literature" rather than law. But the message of Derrida's Kafka is that such externality to the Law is the product of our own imagination about the externality as well as the boundary of a discipline. The externality is silent and unwritten. This is our discipline's well-kept secret of which Derrida continually writes. We continually defer access to the Law as if the boundary of our discipline were obvious, as if the externality to the boundary were "impractical" or "unreal." We lawyers are *believers* about the law in a deeply religious sense. Unless we believe in the boundary, we will not have a legal discipline or legal discourse. And unless we have a discipline, our acts of recognition, exclusion and enforcement will lack legitimacy. We go to war because of our belief. We are willing to be killed in the name and out of loyalty to the belief. As Derrida says in his "Before the Law," the boundary of the Law is a "non-origin" in a non-reality that is inaccessible from the singularly experienced events.[41] We just must believe in the "existence" of the boundary for there to be a discipline. But once we so label the issue, argument, text or evidence in this conclusory way, the non-origin is unknowable.

3 The Inaccessibility to the Boundary

The problem for the man is that once he imagines the boundary and therefore the principles of access to justice, impartiality, equality before the Law, and the universality of a

40. See esp. Derrida, *Specters*, p. 39.
41. Derrida, "Before the Law," p. 192.

discrete law and the Law's legitimacy, an invitation across, through or into the boundary is impossible. Why so? Because the man is left with an official language from which he lacks recognition as a legal person. As Kafka says in "The Problem of Our Laws,"

> Our Laws are not generally known; they are kept secret by the small group of nobles who rule us. We are convinced that these ancient laws are scrupulously administered; nevertheless it is an extremely painful thing to be ruled by laws that one does not know.[42]

The legal profession – the lawyers, judges, law professors, law students – are now the nobles who alone "know" the Law. Despite the unknowability about the externality to the boundary, legal knowledge is the preserve of such nobles. Derrida's Kafka begs questions whether such a legal knowledge is "real." As Derrida says, "the site" or space of the Law – a site that exists by virtue of its boundary – is, again, "impossible."[43] Because the authorizing origin of the Law rests in the man's imagination and is therefore "impossible," the boundary of the discipline itself is "impossible." Derrida goes so far as to say that the boundary is unnameable.[44] Why is it unnameable? Because the officially recognized signifiers inside the official language count as legal, the boundary remains external to and yet "inside" the legal language. Again, the boundary is neither legal nor illegal. As such, the boundary is unsignifiable in the official language. This being so, the Law, as universal inside the unsignifiable boundary, strives to possess and assimilate all possible competing languages outside as well as inside the imagined boundary. The discipline of law needs a myth or fable about a foundation external and prior to law in order to delimit its scope.

As such, any discrete law, let alone the Law as a whole, is inaccessible. With such inaccessibility, according to Derrida, "the story" of any discrete prohibition by the Law is a "prohibited story."[45] So, what is inaccessible is one's entrance through the door of the Law. But the Law's boundary, as Derrida puts it,

> prohibits by interfering with and deferring the "ference" ["*férance*"], the reference, the rapport, the relation. What *must not* and cannot be approached is the origin of *différance* [that is, of the differentiating signifiers as the legal language]: it must not be presented or represented and above all not penetrated.[46]

The origin is the boundary of the language. The "must not" represents a performative statement: that is, "the law of the law." Officials of the Law proceed as if this secret is just that. The secret cannot be openly challenged without representing treason, seditious intent, libel or conspiracy, or a contempt of court. Indeed, if professional law schools raised the possibility of the secret for future lawyers, the very possibility of

42. Kafka, "The Problem of Our Laws," in *The Complete Stories*, ed by Nahum N Glatzer; Foreword by John Updike; trans by Willa & Edwin Muir (New York: Schocken Books, 1971), pp. 437–8.
43. Derrida, "Before the Law," p. 199.
44. Derrida, "Before the Law," p. 197.
45. Derrida, "Before the Law," p. 200.
46. Derrida, "Before the Law," p. 205.

a "pro-fession" of lawyers would dissolve. I am suggesting that officials and expert knowers, instead of being neutral justifiers of legal objectivity, actually make decisions and rules `on behalf of' or `for' [*pro*] a `creed' or `declaration' [*fession*] which would dissolve. In this regard, the social function of the professional law school is and must remain ideological as long as the expert knowers believe in the Law – at least as long as they assume the Law to be a territorial-like space in legal consciousness.

III. "The Law" as a Bounded Territorial-like Space

Now, there is something about Derrida's Kafka which presses that we question Derrida's own imagination. In this regard, one has to ask whether Derrida possesses a particular sense of legal space in mind when he continually describes the boundary of the Law as a "margin," "frontier," or "limit." Derrida even frames competing interpretations of the parable with reference to "a space" where one interprets texts and evidence.[47] Conversely, Derrida interprets the role of the gate-keeper and the role of the man from the country in terms of different discontinuous spaces.[48]

In this context, Derrida is heavily influenced by Kant's theory of *Recht*.[49] In Kant's case, the externality to *Recht* is considered non-law or "primitive," "savage," "barbaric." In Derrida's case, the externality is considered justice.[50] The commonality of Derrida's and Kant's theories of law is the assumption that "the Law" or *Recht* is imagined as a territorial-like space defined by a boundary.[51] The discipline of the Law has an imperial character and scope inside the boundary just as Ronald Dworkin claimed.[52] I now wish to argue that Derrida indeed does possess a particular sense of legal space. In this regard, I shall argue in the next Section that Derrida is not alone in this regard.

The boundary of the legal space, as Derrida himself imagines, demarcates the Law from a multiplicity of singularly experienced events external to the boundary. Territorial space (in contradistinction with the territorial-like space of consciousness) figures in the official recognition of a state. Various provisions of the *UN Charter* recognize and hold out the freedom of a state to militarily protect its physical border. A refugee, in order to be recognized as a legal person, must cross the territorial border of her/his habitual

47. Derrida, "Before the Law," p. 191.
48. Derrida, "Before the Law," p. 200.
49. See e.g. Derrida, "The Laws of Reflection: Nelson Mandela, In Admiration," in *For Nelson Mandela* (New York: Saver Books 1987 [1986]), pp. 13–42, p. 32; 1990: Derrida, "Before the Law," pp. 190, 191, 194, 196, 200, 209, 210; "Force of Law," pp. 233, 245, 254, 275; *Specters*, pp. 3–18; *Rogues*, pp. 85–8. See also Jacques Derrida, *Of Hospitality: Anne Dufourmantelle invites Jacques Derrida to Respond*, trans by Rachel Bowlby (Stanford, CA: Stanford University Press, 2000), pp. 69–73, 147–51.
50. Derrida explains this point in several of his texts. For his analysis of justice and "reconciliation" see his "Archive Fever in South Africa," in *Reconfiguring the Archive* (Carolyn Hamilton, Verne Harris, Jane Taylor, Michele Pickover, Graeme Reid & Razia Saleh eds) (Dordrecht: Kluwer, 2002), pp. 38–60, 74, 76, 78, 80.
51. He is concerned with "the Law" or *Recht* or *le droit* as opposed to a law, *Gesetzen* or *les lois.* See e.g. Derrida, *Rogues*, p. 161n2.
52. Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986).

residence. A subject is said to lack a nationality if the insiders to the boundary of legal language have not conferred such nationality onto the subject as a legal person. Nomadic groups lack a territorial fixity on a territorial space and so they remain unprotected by a state or the international community.[53] The territorial space, so crucial to the state-centric sense of an international community, is imprinted as a product of nature and therefore as unquestionable.

My point is that this sense of territorial space has been carried over into the legal language. Only, in this context, the space is signified by officials and expert knowers. Critical legal concepts have assumed such a territorial-like space as the object of legal protection: property, ownership, a right, the state, the state's sovereignty, jurisdiction, a legal person, the federal division of authority between the state and a province, the independence of the courts, the separation of powers, freedom and no doubt others. Inside the boundary of the space, one is free to act whether one is a legal person or a state authority or the state itself. This association of the Law with territorial-like space is the consequence of the boundary of the discipline of Law. For without such a boundary, one cannot have a space. To re-visit the parable, "everyone strives to attain the Law" (214), there must be "access to the law by everyone at all times" (215), and "the Law, he thinks, should be accessible to every man and at all times" (213). The man from the country desires access to the territorial-like space. The role of the gate-keeper is to protect that territorial-like space. The state claims radical title to all land inside the space. The state is free to act by legislation, adjudication or enforcement inside the space. The foreigner is imagined if unrecognized inside the bounded territorial-like space. Derrida's works are permeated with this concern for the outside to the implied territorial-like legal space.

The space inside the boundary possesses a secret. The secret is that the Law, as a territorial-like space, is undetermined by social-cultural content. To be sure, jury verdicts transpire inside the space. But before social-cultural content embodies the space, the space is already constituted, organized, and polarized between legal and illegal issues, arguments, evidence and texts. The space is subsequently filled with motions, complex rules of procedure, ruthless cross-examinations and an impeccable procedural fairness which is believed to produce a just outcome. But such a fairness is reserved for those inside the space. The space, we must not forget, is imagined. From the standpoint of the man from the country, the content of the space is unknown and unknowable until he is invited to enter through the doorway. His personal experiences and memories of suffering are met with silence from the priest and gate-keeper. He does not understand the language of motions and other idioms of procedural justice. As Jean-François Lyotard points out, the Law attempts to make people forget the social life before the Law ever emerged.[54] This is so because the man from the country imagines the Law as a bounded and physically protected territorial-like space. Without knowledge of the inside of the

53. I examine the legal consequences of being outside the state-centric international "community" in *Statelessness: the enigma of an international community* (Oxford: Hart, 2014, 2015), pp. 96–135.

54. Jean-François Lyotard, "'Before the Law, After the Law': an Interview with Jean-François Lyotard conducted by Elizabeth Weber," *Qui Parle* 11(2) (1999), 37–58, 38.

boundary, the inside is empty at least to the person who lacks knowledge about the inside. From the standpoint of the outsider, the law cannot be known unless the outsider is invited into the space as an inner sanctum.

Interestingly, even the boundary itself lies outside such an inner sanctum. This is so even though, without it, the space cannot exist. Philosophy, Literature, Anthropology, and Politics exist outside the boundary of the territorial-like space in legal consciousness. Derrida even describes the externality as a "zone outside the law."[55] In this regard, the foreigner might physically and territorially inhabit inside the boundary of the legal space. But because we imagine the boundary and its protected space, the foreigner may well inhabit a territorial space and yet remain unrecognized by the officials and expert knowers about the signifying relations inside the territorial-like space. The legal space is virtual, not natural.

Derrida extends this assumption and expectation of a territorial-like space to the nature of law as an academic discipline. He is especially preoccupied with the boundary of the discipline in his *Eyes of the University: Right to Philosophy 2*.[56] In this context, Derrida is concerned less with the outsider to the boundary than with the locus of the boundary itself. The boundary defines the discipline. Derrida explains that

> [w]hat I am suggesting here does not amount to subordinating language or the force of language, or indeed the war of languages as such, in relation to a pre- or nonlinguistic force, to a struggle or more generally to a relationship that is not one of language … . No, I am only emphasizing that this relationship of language must already, as such, be the power relationship of spacing, a body of writing to clear a path, in the most general and fullest sense of these words. It is on this condition that we have some chance of understanding what happens, for instance when a language becomes dominant, when an idiom takes power, and possibly State power.[57]

Working within the dominant language – that is, the legal language – the language of the officials "erases but also exposes that which it erases and which resists it."[58] The dominating language, Derrida continues, becomes "the path of erasure … a path that passes over or beyond the path of language, passing its path." Kant's idea of a pure and rational discipline, juxtaposed with the practice of phenomena, is therefore misdirected.

A hierarchy of faculties invariably accompanies the purity of an institutional structure of disciplines.[59] Because the "border" of a discipline is constantly being challenged from within the discipline, academic departments are constantly de-stabilized. The boundary itself of the discipline invariably infuses the expert knowers of the legal language with power to the extent that it translates displaced languages. Border conflicts will invariably ensue between disciplines and between university departments and non-university or governmental research centers. Because the boundary of a discipline is of a language rather than a structure of signified concepts, the issue of the foundation of the legal

55. Derrida, *Monolingualism*, p. 65.
56. Jacques Derrida, *Eyes of the University: Right to Philosophy 2*, trans by Jan Plug (Stanford, CA: Stanford University Press, 2004 [1990]).
57. Derrida, *Eyes*, p. 13.
58. Derrida, *Eyes*, p. 19.
59. Derrida, *Eyes*, p. 103.

discipline is neither a matter of its foundation nor of its own juridical event on a Critical Date.[60] Even the legitimacy of the university lacks a foundation which the university cannot construct. To be sure, the law faculty may celebrate the birthdate of its foundation but the foundation cannot be determined by the faculty. The foundation is neither illegal nor legal: "[t]hough such a foundation is not merely illegal, it also does not arise from the internal legality it institutes."[61] The foundation of the legal discipline is non-legal – that is, external to the boundary which officials and expert knowers claim to know as the boundary of our discipline. Derrida ends this excursus into the nature of the boundary of a discipline with this question: if the legitimacy of law, as a discipline, depends upon an externality to the discipline, what is that externality? Derrida responds with what Hegel considered an ethos or what Foucault considered an "historical *a priori*": namely "an epoch of the law." What could be more philosophical than an examination of the nature of the boundary of an academic discipline?

In his "The University Without Conditions" Derrida extends his argument in one of the more insightful essays about the nature of a university and, by inference, of the discipline of law.[62] Here, he entertains the possibility of a university situated external to the boundary of the juridical structure of the state. Such a university would highlight the right of deconstruction "as an unconditional right to ask critical questions not only about the history of the concept of man, but about the history even of the notion of critique about the form and the authority of the question, about the interrogative form of thought."[63] This new Humanities discipline, he urges, should include "law," "legal studies" and "theory." The knowledge structure of such an externally situated new discipline would not be performative. Instead it would be "theoretical and constative" "as if" it were not legitimized by the instrumental rationality inside the space of the external juridical state structure. Interestingly, Derrida takes for granted in this essay that the Law occupies an "academic space" delimited by the boundary, the university lacking the condition of the boundary. The university, he writes, would lack a boundary because it would be "founded on a justice that surpasses it and thus authorize ourselves to deconstruct all the determined figures that this sovereign unconditionality may have assumed throughout history."[64] As such, the university would be "founded" without a foundation legitimized by the state. This is what he signifies by the "unconditionality" of the university. This "idea of a space," he insists, "has to be symbolically protected by a kind of absolute immunity, as if its interior were inviolable."[65] The university will "seek its place" wherever the "unconditionality" external to the boundary of the legal space finds itself.

My point here (and in this article generally) is that Derrida leaves us with a circularity which returns us to the bounded territorial-like legal space of our epoch's historical

60. Derrida, *Eyes*, p. 109.
61. Derrida, *Eyes*, p. 109.
62. Derrida, "The University without Conditions," *Without Alibi*, ed & trans with intro by Peggy Kamuf (Stanford, CA: Stanford University Press, 2002), pp. 202–37.
63. Derrida, "Without Conditions," p. 204.
64. Derrida, "Without Conditions," p. 208.
65. Derrida, "Without Conditions," p. 220.

a priori. The "internal limitrophe" and "external limitrophe" of a discipline internal to the boundary of such a legal space must be self-examined.[66] The boundary of a territorial-like space represents the fundamental need to gaze external to the boundary for the legitimacy of the discipline of law. And yet, Derrida leaves us with a new discipline as bounding a territorial-like space, this being a key feature of the contemporary epoch of the Law.

IV. The Imagined Bounded Space of Contemporary Legal Thought

Derrida is not alone in his imagination of the Law as a bounded territorial-like space. This, I shall note in detail in a moment. Before I do so, I wish to highlight how Derrida's identity of the Law with a territorial-like space is shared by other interpreters of Kafka's parable.

1 The Dissolution of a Spatial Boundary

Before I turn to other interpreters of the parable, it is important to appreciate how the phenomenological tradition has understood space in terms of experiential knowledge rather than of a bounded territorial-like thing.[67] An experiential sense of space is assimilated into how one experiences an event.[68] Such an experienced space highlights a meaning-constituting subject. It may be that Kafka succeeds in exposing the problematic of a territorial-like space because he writes in the form of a parable in that a parable lacks the linearity characteristic of a boundary.[69]

Interpreters of the parable, like Derrida, have aspired to escape from the intellectual strictures of the Law as a territorial-like space. Michel Foucault desired to do so when he brought into question the royalty model of sovereignty as a territorial space.[70] Walter Benjamin, for his part, read Kafka as if Kafka were searching for a space lacking a subject.[71] In this regard, Kafka invariably finds himself a failure in any effort to come in

66. Derrida, "Without Conditions," pp. 210–13.
67. See esp. Maurice Merleau-Ponty, *The Structure of Behaviour* (trans: Alden L Fisher; London: Methuen1963 [1942]), pp. 98-147; Edward S. Casey, *Getting Back into Place: Toward a renewed understanding of the place in the World* (Bloomington, IN: Indiana University Press, 2009 rev'd ed [1993]); Conklin, "A Phenomenological Theory of the Human Rights of the Alien," *Ethical Perspectives* 13 (2006), 245–301.
68. For an excellent description of such an experienced everyday world see Ian Buchanan, "Space in the Age of Non-place" (Buchanan & Gregg Lambert eds) *Deleuze and Space* (Toronto: University of Toronto Press, 2005), pp. 16–35.
69. For the importance of the genre of K's story as a parable, see Bensmaïa, "Foreword," in Gilles Deleuze and Félix Guattari, *Kafka: Towards a Minor Literature*, trans by Dana Polan; Foreword by Réda Bensmaïa (Minneapolis, MN: University of Minnesota Press, 1986 [1975]), p. xiv.
70. See esp. *Space, Knowledge and Power: Foucault and Geography* (Jeremy W. Crampton & Stuart Elden, eds) (Farnham and Burlington, VT: Ashgate, 2007).
71. Benjamin, "Some Reflections on Kafka," in *Illuminations*, ed with intro by Hannah Arendt, trans by Harry Zohn (New York: Schocken Books, 1968), pp. 141–5.

from the cold where there is no recognized legal subject. Kafka is preoccupied with failure, according to Benjamin.[72] Failure in relation to "what," one might ask. Failure, I suggest, in being recognized by the signifiers of the in-groups about him.[73] Peter Fitzpatrick has particularly emphasized the complexity and resistance of the incommensurable social relations of the outsider to the Law.[74] Gilles Deleuze and Félix Guattari claim that we need to de-territorialize space.[75] In this regard, Réda Bensmaïa does do so by suggesting that Kafka raises the possibility of a radical heterogeneity inside "a linguistic space."[76] And Reza Banakar suggests that Kafka introduces one to the possibility of law as a form of experience.[77] As long as a space is presumed to be territorial-like, however, there will always be the prospect of an excluded exteriority and the need to re-territorialize or transform such a space. And such a re-territorialization will invariably exclude an effectively stateless person from protection inside the legal space.[78] The possibility of statelessness raises the prospect of a blurring of languages without an experienced "place" in the legal space and without recognition by a proper name such as "Canada" or the "United States."[79]

2 The Adoption of Territorial Space

Despite the above and other efforts to offer an alternative to the Law as space, a boundary surrounding territorial-like space has dominated legal analysis and endeavors of cross-disciplinary research. To begin with, the boundary between law and the stranger is sometimes understood entirely in terms of a physical border. Various anthologies and symposia have read sovereignty in terms of a spatial structure.[80] Henri Lefebvre has privileged

72. Peter Fitzpatrick explains this point in "Political Agonism and the (Im)possibility of Law: Kafka's Solution," *Teoria e critica della regolazione sociale* 2, 2015 (special issue: "L'epoca dei populismi. Diritti e Conflitti / The Age of Populism. Rights and Conflicts," ed. by F. Ciaramelli, F.G. Menga), 97–115, 101.
73. For discussion of the exclusion from in-groups of Kafka in his own life see Banakar, "In Search of Heimat: A Note on Franz Kafka's Concept of Law," *Law and Literature* 22 (2010), 463–90; Litowitz, "Outsider Jurisprudence."
74. See, e.g. Peter Fitzpatrick, *Law as Resistance* (Aldershot and Burlington, VA: Ashgate, 2008); "Passions out of Place: Law, Incommensurability, and Resistance," in *Laws of the Postcolonial* (Eve Dorian-Smith and Peter Fitzpatrick, eds) (Ann Arbor, MI: University of Michigan Press, 1999), pp. 39–59.
75. Gilles Deleuze and Félix Guattari, *Kafka: Towards a Minor Literature*, trans by Dana Polan; Foreword by Réda Bensmaïa (Minneapolis, MN: University of Minnesota Press, 1986 [1975]).
76. *Kafka: Towards a Minor Literature*, p. xiv.
77. Banakar, "In Search of Heimat," 485.
78. Deleuze and Guattari, *Minor Literature*, p. 19.
79. I infer this from Deleuze and Guattari, *Minor Literature*, pp. 21–2.
80. See e.g. *The Expanding Spaces of Law: a Timely Legal Geography* (Irus Braverman, Nicholas Bromley, David Delaney & Alexander Kedar, eds) (Stanford, CA: Stanford University Press, 2014).

how legal discourse has been imagined as the production of territorial space.[81] In his "Waiting Before the Law: Kafka on the Border," for example, Henk Van Houtum interprets Kafka's parable entirely in terms of the territorial border separating the Law from the man.[82] As long as there are territorial borders, there will be barbarians, he claims. Indeed, once we have a territorial border, the Law inside the border is empty. Giorgio Agamben similarly interprets Kafka's "Before the Law" in *Homo Sacer* as if the open doorway to the law, as described by Kafka, represents the key challenge to the man from the country.[83] This very idea of an open doorway, however, implies that the doorway opens into an open space which Agamben takes for granted as "the Law." Maurice Blanchot similarly describes Literature as a "space" where there is a "distance" between the author and the reader as if "fixed poles" separate them.[84] Such a physical distance elevates texts beyond access and beyond time, according to Blanchot.

My point, though, is that the boundary of legal space is not a matter of a physical distance or territorial property. Rather, the boundary is imagined as if territorial. That is, we actually assimilate the notion of territorial space into how we imagine the Law, justice, and the outsider just as Derrida has extended this imagined space to the "new Humanities" and to the university itself. Margaret Davies similarly clarifies Derrida's legal thought as pinpointing the importance of a spatial dimension to the Law and to Justice.[85] The legal genre takes for granted that law radically differs from non-law by virtue of the "distance" between the two. Derrida is stuck into imagining the Law as defined by territorial metaphors: "the edge," "the limit," "the frontier," "the clear line," "the space" and "distance." At its "limit," the Law is enclosed by a "rupture" or "stopping point," Davies emphasizes.

In this vein, John Caputo too holds out justice as a "gap or distance" from "the positive structures that make up the judicial systems of one sort or another."[86] Deconstruction,

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81. Henri Lefebvre, *State, Space World: selected essays*, ed by Neil Brenner & Stuart Elden; trans by Gerald Moore, Neil Brenner & Stuart Elden (Minneapolis, MN: University of Minnesota Press, 2009).
82. Henk Van Houtum, "Waiting Before the Law: Kafka on the Border," *Social & Legal Studies* 19(3) (2010), 285–97, 189.
83. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans by Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1998 [1995]), pp. 49, 54.
84. Maurice Blanchot, "The Space of Literature," in *Continental Philosophy: an Anthology* (William McNeill & Karen S Feldman, eds) (Oxford: Blackwell, 1998), pp. 348–53; "The Narrative Voice" in Maurice Blanchot, *The Station Hill Blanchot Reader: Fiction and Literary Essays*, trans by Lydia Davis, Paul Auster & Robert Lamberton; Foreword by Christopher Fynsk; Afterword by George Quasha & Chaores Stein; ed by George Quasha (Barrytown, NY: Station Hill 1999), pp. 459–69, 464–5; *The Infinite Conversation*, trans & foreword by Susan Hanson (Minneapolis, MN and London: University of Minnesota Press, 1993), pp. 49–58; *The Work of Fire* trans by Charlotte Mandell (Stanford, CA: Stanford University Press, 1995), p. 26.
85. Margaret Davies, "Derrida and law: legitimate fictions," in M. Davies (ed.), *Derrida and the Humanities* ed. by T. Cohen (Cambridge: Cambridge University Press, 2001), pp. 213–37.
86. John Caputo, "A Commentary: Deconstruction in a Nutshell," in *Deconstruction in a Nutshell: a Conversation with Jacques Derrida*, ed with Commentary by John D. Caputo (New York: Fordham University Press, 1997), p. 132.

he continues, "grows up" in the "cracks of the law." Willy Maley similarly focuses upon Derrida's preoccupation with the Law's "fraying edges" outside which lies justice.[87] Michael Dillon continues that experience involves an absence of a "horizon" or limit to knowledge as if knowledge existed in a spatial container.[88] The challenge, then, is to "get at" Law's boundaries, according to David Nelken.[89] Once we do so, we will be able to know the locus of justice.

Judicial decisions and legal commentaries about the exclusion of indigenous peoples from the Law manifest a similar territorial-like character to the exclusionary character of the Law. The assumption of the jurists is that pre-settler inhabitants possessed and still possess an "Indianness" culturally distant from the state-centric legal order.[90] This is the view of the Supreme Court of Canada which has required indigenous complainants to establish that they had a "right" to fish or hunt or cut timber historically before such European contact and to establish that this right was continuous to the present-day when one remained dependent upon the right for one's livelihood.[91] The Canadian Courts have also assumed a territorial-like distance between common law title, as elaborated in the common law, and "aboriginal title" prior to sovereignty.[92] Reservations were established to exclude the indigenous inhabitants from the legal culture as if we could deny the inhabitants inside the signifiers of the official legal language. And residential schools were authorized by the state over nine generations with the sole purpose of assimilating the indigenous children into the "civilization" represented by the Law.[93] This juridical territorial-like distance between the Law and those indigenous inhabitants excluded from the Law has been reinforced in studies of the colonialization[94] and of legal racism by the Law towards indigenous

87. Maley, "Beyond the Law: The Justice of Deconstruction," *Law and Critique* 10 (1999), 49–69.
88. Dillon, "Another Justice," *Political Theory* 27(2) (1999), 155–75, 166.
89. Nelken, "Getting at Law's Boundaries," *Social & Legal Studies* 15(4) (2006), pp. 598–604.
90. See e.g. *Delgamuukw v. British Columbia* [1997] 3 SCR 1010; 153 DLR (4th) 193, para. 181 quoting from *Dick v. The Queen* [1985] 2 SCR 309, 23 DLR (4th) 33, per Beetz at p. 320; *R v. van der Peet* [1996] 2 SCR 507, paras 20, 71; *R v. Sappier* [2006] 2 SCR 686; 274 DLR (4th) 75, para. 22 per Bastarache.
91. See e.g. *R v. Sparrow* [1990] 1 SCR 1075 (SCC); *R v van der Peet* [1996] 2 SCR 507 (SCC); *R v. Gladstone* [1996] 2 SCR 723 (SCC); *Lax Kw'alaams Indian Band v. Canada (AG)* [2011] 3 SCR 535.
92. *Guerin v. The Queen*, [1984] 2 SCR 335 (SCC); *Delgamuukw v. BC* [1997] 3 SCR 1010 (SCC);
93. Canada, Truth and Reconciliation Commission, "Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission, 2015", 6 vols (Toronto: Lorimer, 2015), vol. 1.
94. Julie Evans, "Where Lawlessness is Law: the Settler-Colonial Frontier as a Legal Space of Violence," *Australian Feminist L J* (2009), 3–22; Anthony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2005); Anghie, "Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law," *Harvard International Law Journal* 10(1) (1999), 3–71.

peoples.[95] Even today "reconciliation" has been framed in terms of a territorial-like axis of reference where indigenous self-government, like an indigenous Reservation in the past, is imagined as if a territorial-like space separate and independent of the state's space.[96] The language of the Law is said to become "distant" from the indigenous languages.[97]

The territorial-like boundary has also been manifested in juristic efforts to cross the boundary separating scholarly disciplines and the law. This need to "cross-over" the territorial-like boundary of the law has characterized literature, sociology, (analytic) philosophy, anthropology, critical legal studies, feminist legal thought and most prominently, socio-legal studies. To take an example and only as an example,[98] Austin Sarat and others have set up the intellectual objective of socio-legal studies with reference to the boundary between their discipline and the law.[99] Once again, however, a territorial-like boundary has been presumed to separate one discipline, such as the Law, from another, such as socio-legal studies. Such an effort has been manifested by the metaphors employed to clarify the objective: "crossing," "bridging," "mapping," "the path," "field of study," "working within," "an interdisciplinary space," "intellectual space," "stories from the front," "border identities," "space," "place," "ties that bound," "out of bounds." Even the commonly accepted word, "construction," used by lawyers as much as by non-lawyers, has implied a territorial-like act as if a castle were being built. The intellectual objective has been met either by the merging of the foreign discourse with the legal or, alternatively, the assimilation of the foreign discourse into the legal. The best example of the latter is exemplified by the superficial adoption of the terms of analytic legal philosophy by the Supreme Court of Canada.[100]

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95. See e.g. Robert A. Williams, *The American Indian in Western Legal Thought: The Discourses of Conquest* (New York: Oxford University Press, 1992 (orig. 1990)); Patrick Wolfe, "*Corpus Nullius*: The Exception of Indians and other Aliens in US Constitutional Discourse," 10(2) (2007), 127–51; P.P. Curtin, *Imperialism* (London and Basingstoke: Palgrave Macmillan, 1971).
96. See Canada, Truth and Reconciliation Commission, pp. 1–22, 43–110; Glen Sean Coulthard, *Red Skin White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis, MN and London: University of Minnesota Press, 2014), pp. 105–49.
97. For a focus upon the experiential distance between legal language and indigenous languages see James Tully, "The 'Spirit of Haida Gwaii' as a symbol of the age of cultural diversity," in *Strange Multiplicity: Constitutionalism in an age of diversity* (Cambridge: Cambridge University Press, 1995), pp. 19–29; Aimée Craft, "Living Treaties, Breathing Research," *Canadian Journal of Women and Law* 26 (2014), 1–22.
98. For an example of the merging of law and literature see, e.g., Costas Douzinas and Adam Geary, *Critical Jurisprudence: The Political Philosophy of Justice* (Oxford: Hart, 2005), pp. 357–9.
99. Austin Sarat, Marianne Constable, David Engel, Valerie Hans, and Susan Lawrence (eds), *Crossing Boundaries: Traditions and Transformations in Law and Society Research* (Evanston, IL: Northwestern University Press, 1998).
100. Though not necessarily as the philosophers had intended as in the case of the Supreme Court of Canada's legitimizing of its utilitarian approach to rights by citing Ronald Dworkin's work.

V. The Inverted Image of the Outsider

Once this sense of territorial-like space is taken for granted, officials and expert knowers of the configurations of signifiers recognize legal persons from the standpoint of the legal space. The consequence, though, is that the man from the country, as a stranger to the Law, is imagined as the inverse of the professional self-image inside the boundary of the legal space. Hegel's idea of an inverted world suggests such a possibility about knowledge generally.[101] What is critical here is not the stranger to the legal language but the knower's image of the stranger outside the boundary of the territorial-like space. Instead of rationality, the expert knowers picture a "rational chaos" – to use the term of the Supreme Court of Canada – external to the imagined boundary of legal knowledge.[102] Instead of law, the knowers have imagined "lawlessness." Instead of a centralized institution, such as a court, with a "system" of laws, the knowers have imagined a de-centralized "rudimentary," "undeveloped," "pre-legal," "extra-legal," "nomadic," "pre-legal," "savage," "barbaric," "uncivilized" lawless world, and on it goes. The unknowable externality remains outside the territorial-like space imagined as the preserve of the Law.

It makes sense, as long as we assume the discipline of law as a territorial-like space, that certain issues, arguments, evidence, texts and the social-cultural content of the Law "fall" within the boundary of Philosophy, Politics or Socio-legal Studies. At the same moment that the Law is believed to exclude other disciplines, however, the boundary of the Law is slowly and subtly expanded by virtue of its claim to universality and a jurisdictional totality over all objects inside its territorial-like space. The consequence, of course, is a cultural violence by the Law as a discipline over other disciplines. This being the case, there is no limit to the knowledge claimed by expert knowers inside their boundary of legal knowledge. The expert knowers are free to expand their imagined boundary in the name of justice and yet, the structure is not responsible for the outsider *vis-à-vis* the boundary. There cannot be law without the separation of the Law from extra-legal knowledge.[103]

We must now gain a better grasp of the image of "the Law" as a territorial-like space in legal consciousness. The claim that the Law is universally accessible to "everyone" who falls inside the boundary of a discrete law as territorial-like space or who finds her/himself inside the territorial-like jurisdiction of the state helps one to understand why Derrida says that all states and all cultures and the Law itself are colonial.[104] This is so because the legal structure and its discrete laws, Derrida believes, are universal inside the bounded territorial-like space. This point also explains why Derrida would describe the

101. Hegel explains his notion in *Phenomenology of Spirit* trans by A.V. Miller (Oxford: Oxford University Press, 1977 [1807]), paras 143–65 and *Science of Logic*, trans by A.V. Miller (London: Humanities Press, 1969 [1812–16]), paras 499–511. I flesh out Hegel's concept of an inverted world in *Hegel's Laws: the Legitimacy of a Modern Legal Order* (Stanford, CA: Stanford University Press, 2008), pp. 84–101.
102. *Reference re Manitoba Language Rights*, [1985] 1 SCR 721, 19 DLR (4th) 1, SCC.
103. Derrida makes this point in *Rogues*, p. 150.
104. Derrida, "A Discussion"; *Monolingualism*, p. 39.

Law, like Literature, as a "strange institution."[105] Law is a language which makes no sense – that is, no signification – outside the boundary of a territorial-like space in legal consciousness. Legal space is thereby imagined because its boundary, an object of deep belief, is also imagined. So, the institutional and normative structures inside the territorial-like structure of the legal discipline construct their own history, a history which never existed but which the legal memory produces and narrates as a rationally coherent order.[106] The discipline of law becomes a game of "let's pretend." Other disciplines, each with its own space, can be ignored or excluded as extra-legal.

Any legal text is thereby nested in an idiom of familiar signifiers which cannot access the "personal experiences" of the man from the country. Indeed, the experienced events – including the silence with which the man's effort is met by the officials inside the boundary – are forgotten. Indeed, the expert knowers of the official chains of signifiers forget that the experienced events were ever forgotten. The events are cleansed from social and collective memory. For this reason, only the language inside the imagined boundary of the legal space is deconstructable. As Derrida says in an interview, "deconstruction is something which happens and which happens inside."[107] The "inside," of course, involves the familiar signifiers inside the imagined boundary of the discipline of the Law. In sum, Derrida, just as does the man from the country, presumes that the Law is a territorial-like space the scope of which is defined by the imagined boundary of the legal discipline.

VI. The Arbitrariness of the Law as a Bounded Legal Space

The boundary of the legal space does not just happen in this year or month – better known amongst lawyers as "the Birthday" of the State. The birthday of the foundation of the legal space is a-historical in that it interrupts the experienced events before the Law. The boundary exists a-historically. Since the late 18th century, international and constitutional law has named the birthday the "Critical date" of the formation of the Law.[108] Such a Constitution, as Derrida explains in his *Mandela* essay, "cannot presuppose the previously *legitimized* existence of a national entity. The same is true for a first constitution."[109] The past cannot exist once we imagine the boundary as establishing the legal space.[110] Only "History," as a discipline, exists. Such a History, though, is a-historical to the extent that it interrupts previously existing experienced events. As such, there can be no revolution, no terrorism, no crime, and no legal harm except to the extent that the man from the country and Derrida believe in the territorial-like legal space as if it were formed by a "Big

105. "This Strange Institution called Literature': an Interview with Jacques Derrida," in Derek Attridge, *Acts on Literature* (New York and London: Routledge, 1992), pp. 33–75, 37.
106. Derrida, "Strange Institution," p. 42.
107. Derrida, *Deconstruction*, p. 9.
108. *Campbell v. Hall* (1774) 1 Cowp 204, 98 ER 1045 (KB).
109. Derrida, "Mandela," p. 20.
110. See Carolyn Steedman, *Dust: The Archive and Cultural History* (New Brunswick, NJ: Rutgers University Press, 2001).

Bang."[111] Pressed further, the Founding Fathers' "Constitution" represents Plato's Big Lie in a world which deconstructs metaphysical objectivity. The first chapter of a constitution is self-creative and self-determining purged of the possibility of a pre-legal, external world outside and before the Critical date. The formal rational discourse inside the imagined boundary of the legal space offers an unquestioned source of the legitimacy for the Law as self-creative and self-determining.[112] Because of the imagined boundary, even the Law as legal space shares the arbitrariness of an a-experienced dimension.

Derrida's Kafka may well be hinting at this possibility when we are left with the apparent conclusion that the boundary – the doorway to the Law – does not offer a place for the invitation to the man from the country nor does the doorway function as a venue to command the man to enter. Before the man enters the Law, s/he is an experiential subject. That is, the man possesses experiential knowledge understood through her/his own personal memories of the harm which had encouraged the man to come before the Law. The man also possesses experiential knowledge about the personal and collective memories of the silenced response from the officials of the Law to his concern regarding his lack of access to the Law. Derrida writes that "[b]efore the law, the man is a subject of the law in appearing before it."[113] The man from the country is a meaning-constituting subject. Derrida continues that

> [t]his is obvious, but since he is *before* it because he cannot enter it, he is also *outside the law* (an outlaw). He is neither under the law nor in the law. He is both a subject of the law and an outlaw.[114]

Derrida says shortly thereafter that "the man of nature is not only a subject of the law outside the law, he is also, in both an infinite and a finite way, the prejudged, not so much as a prejudged subject but as a subject before a judgment which is always in preparation and always being deferred."[115] In short, once the subject is recognized as a signifier in the official language, the subject becomes a legal person. Derrida, the man from the country and the gate-keeper all assume that the meaning-constituting subject is an outlaw because such a subject is excluded from the territorial-like space. That space is accepted as if a fact of nature. As the priest ends his recounting of the parable,

> "[t]hat means I belong to the Court," said the priest. "So why should I want anything from you?" The Court wants nothing from you. It receives you when you come and it dismisses you when you go. (222)[116]

Centralized legal institutions are just "there." Again, "[t]he court wants nothing from you." The Law is just "out there" as a passive "fact" separate from the experiential world of the outsiders from the officials and expert knowers, as insiders. This passivity of a fact

111. I am grateful to Walter Skakoon for this metaphor.
112. Derrida, "Mandela," p. 20.
113. Derrida, "Before the Law," p. 204.
114. Derrida, "Before the Law," p. 204.
115. Derrida, "Before the Law," pp. 205–6.
116. See also Derrida's discussion of this passage in "Before the Law," p. 220.

is the outcome of the timelessness and a-experiential sense of space characterizing "the Law." The man from the country is forgotten. Indeed, the Court has forgotten that it ever forgot the man from the country as an experiential being.

VII. Derrida's *Aporia*

We are left, then, with an *aporia* or "dead-end." This *aporia* is not just Kafka's. Nor is the *aporia* Derrida's. The *aporia* is shared with the man from the country, the gatekeeper, the priest, and contemporary lawyers, judges, law professors, law deans and law students. Even philosophers share this *aporia*.[117] The Law is believed to be a territorial-like space existing by virtue of its boundary. Such a space exists because of its imagined boundary. We cannot cross the boundary to recognize evidence, an issue, text or an argument or the insights of another discipline as long as we believe in the boundary of the Law as a delimited territorial-like space. We remain in a dead-end road.

Derrida's *aporia*, it needs emphasis, rests in the very presumed boundary of territorial-like space. One cannot believe in a boundary of such a space unless one also implicitly claims to know what is on the other side of the boundary. How else could an expert knower imagine a boundary? The *aporia*, though, rests with an imagined boundary of legal knowledge. The expert knower – the noble of the contemporary world inside the boundary of the Law – is entrapped in that s/he desires to access law even on behalf of others but s/he cannot know the Law without knowing the externality of the boundary which s/he has imagined – something that the boundary delimits. As Derrida himself puts it in "The Force of Law," we cannot access "the experience of what we are unable to experience."[118] The boundary estops the expert knower from claiming to know the externality of the Law's boundary. Such a knowledge is an unknowable remainder to the Law – at least the Law as imagined as a territorial-like space in legal consciousness.

This *aporia* holds the key to the possibility of understanding the boundary of "the Law" and therefore the discipline of "the Law" itself. Once we expert knowers become self-conscious about the boundary as the product of our own imagination and belief, the boundary and with it the Law dissolves as a "given" in legal knowledge. And with such a dissolution, the suffering of the man from the country might well be addressed by the nobles. So too, for that matter, might the suffering of the foreigner of the contemporary bounded legal space.

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117. See the commentators in Derrida, *Ethics*, 19–56. See also Peter Pericles Trifonas, "What Comes Next? Or After Difference: Meditations on the Debt and Duty to the Right to Philosophy," in *Ethics*, pp. 57–105, 94.
118. Derrida, "Force of Law," p. 244.