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M. Dos Santos-Lee

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## The law of law

### **Abstract**

Philosophy or law? Cause or effect? Does Philosophy name the laws through which things become known or are deemed as true, or must Philosophy itself be compelled by a law; guarded by an order that grants it the authority to write that such-ana-such is indeed so? And what would be the nature of such a law? What would name it as being 'true'? Philosophy? Another law? An infinite regress in the orders of Philosophy and law? ... Can we ever hope to arrive at an absolute origin in this schema, from which knowledge or truth may begin?

# The Law of Law

Maria Dos Santos-Lee

## Introduction

Philosophy or law? Cause or effect? Does Philosophy *name* the laws through which things become known or are deemed as true, or must Philosophy itself be *compelled* by a law; guarded by an order that grants it the authority to write that such-and-such is indeed so? And what would be the nature of such a law? What would name *it* as being 'true'? Philosophy? Another law? An infinite regress in the orders of Philosophy and law?.... Can we ever hope to arrive at an absolute origin in this schema, from which knowledge or truth may begin?

Or have we perhaps misconstrued the nature of Philosophy and this notion of law at its most abstract? Misaligned their relation to each other? Were we perhaps in error to assert a separation between the idea of Philosophy and this abstract conception of law, by seeking to allocate them in the distinct roles of 'cause' or 'effect'? Do they, rather, share one-and-the-same identity? Philosophy *as* law; a 'first-cause' – an uncaused-cause – that announces itself in the very pronouncement of the laws of knowledge and of truth. Philosophy/law, here, would mark an absolute origin from *whence* the 'laws' of the knowable would be written; designating the limit therefore, beyond which things would be unintelligible.

And by conceiving of Philosophy/law as a 'first-cause'; the origin of truth and of knowledge, have we thereby resolved the

question of Philosophy and of law at its most abstract? Does its law (a self-law) simply mark it as the ma(r)ker of the laws of what is knowable? Self-cause as the 'law of the law', writing itself, and therefore writing itself beyond question; beyond doubt or further discussion – immutable. Philosophy/law as absolute arbiter of truth and knowledge. End of story(?)

Would this be the necessary conclusion? Is it a satisfactory resolution? Is there 'truly' nothing more to discuss on the law of the laws of truth and of knowledge? No room left *from* which to question intelligibly this abstract conception of the law/Philosophy, since *it* designates absolutely the limits beyond which things are unintelligible? Or does something more happen when a limit is drawn? Is not the space of the *beyond* precisely opened up? A site of absolute difference; complete otherness. And is this not specifically the space *from* which discussion may begin?

### **Discussing the Law of Law...**

We begin, then, with a proposition; an announcement of the law that pronounces that: '*At its most abstract, the law designates a limit beyond which things are unintelligible*'. Yet, it seems impossible to even begin discussing this statement without in some way translating it; transforming it through a series of our own designations. We would need to, for example, delineate what law 'at its most abstract' connotes, along with delimiting what constitutes the 'intelligible'. In so doing, the proposition becomes re-configured, re-ordered in *order* to be elucidated, or illuminated, in the first instance – made legible ... perhaps intelligible? And the idea of 'translation' here is translated as: 'the action of changing one thing to another form'; 'bearing something, from one place

to another'; 'the expression of one thing, in other terms'. And here, it is critical to note that the change that is necessarily involved in translation is not just *any* type of shift; without parameters, without limits. A translation after all is not a restoration or a duplication – a movement which carries us back to an identical location; a reproduction of exact sameness. Indeed, the idea of translation always involves the idea of difference; the separation from an 'original'/origin. But then, neither is translation *simply* alteration either. To constitute itself as a translation it must still bear a resemblance to its original. Its connection must remain recognisable; communicable, else it would simply become distinct; a totally separate entity. What, however, *allows* translation? What bestows the order of semblance between two entities that are necessarily different? What guarantees the safe journey here, of one thing to its recognisable, translated other? A set of rules, or a code of ordering? A law? But we seemed to have travelled in a circle; to translate is to transform according to a code or an order – however, what determines the movements of this ordering? A higher level of ordering? Another law? An infinite order of laws?

To begin then, we have had to translate. But, in so doing, it appears that we have enacted our very opening proposition – that we can *only* proceed by enacting what it designates – to impose a law, a set of rules, which would both confine, and define our discussion, allowing its shape to emerge in the very sketching of this boundary. Would this necessity, then, gesture at the 'truth' of such a proposition? And would this thereby constitute it as a 'Law' – a principle? That is: 'Is it a 'truth'/Law that things must be ordered under a law/rule, in order that they become intelligible, comprehensible, knowable?' But this movement already seems

to presuppose another 'layer'/order of law – our acceptance that intelligibility or knowledge *is* constituted by a series of orderings or laws would suggest that we are *already* subject to a certain conception of what knowledge is. It writes itself, therefore, as a 'Theory of Knowledge'; another tier of law we know as Philosophy.

And certainly it would seem that much of Western Philosophy has been compelled under the 'truth' of this conception of knowledge – to further this 'truth', by seeking out and delineating the laws of this law, and the rules this 'truth' would engender – from Plato's Forms to Kant's Pure Categories of the Understanding, from Hegel's self-conscious Spirit to the structures derived from the theories of Semiotics. Indeed, the history of Western Epistemology can be read as the quest to locate and name, ever more clearly and precisely, the laws circumscribing intelligibility and knowledge. A.J. Ayer writes,

The theory of knowledge discovers what it is in our power to know.... It aims ... at establishing criteria for knowledge; criteria which may possibly set limits to what can be known (Ayer 1973: 1).

For Ayer, then, defining the laws of knowledge could also set the *limits* of knowledge. But what is pertinent to recognise here is that a boundary or a limit does not describe an *absolute totality*. Rather, its marking circumscribes a *finitude* – a finitude that emerges only against the background of its other; the space of the beyond, that lurks outside the confines of its perimeter. In this way, then, highlighting the limits of knowledge would also serve to throw it up against *its* other; the unintelligible and

incomprehensible that haunts the regions beyond the bounds of knowledge. Yet, we may ask: 'Can we know with any positive assurance from *within* the boundaries of our fully contained knowledge, even *this* much of the beyond? That it *is* indeed unknowable?' The laws of logic would seem to dictate *both* the affirmation and denial of the question posed: 'Certainly there would *only* be the unintelligible beyond the intelligible' ... and yet ... 'How could we know so much about what we *can not* know?' There appears to be an ill-logic in the logic at work here. A logic that Foucault derides as a 'philosophy of representation' (1977: 172); a linear logic which conceives of truth as located in the pure presence of the origin or original object (Foucault 1977: 143). Knowledge, here, would be determined as the most accurate reflection or representation of such an original. However, this conception of knowledge creates a necessary blind-spot at the limiting site of its origin – like the specular surface of reflection, this logic of representation must *itself* disappear in order to reflect at all. This limit, therefore, which the law marks, becomes its own erasure; a boundary which can not bound itself – a 'space' of non-law (Derrida 1980). A place which is neither knowable, nor unknowable.... Is this intelligible? We seem to have arrived at a dead end.

But what has compelled us here? The quest for the law of the laws of knowledge; the task of Philosophy itself? And what will be the limit of this venture? Will it be the horizon of complete knowing? The attainment and containment of all laws and truths defining knowledge? Yet, we have visited this space before. After all, hasn't Kant already articulated the limits of Reason? Pronounced and deduced with clarity, all the *a priori*, and therefore fundamental categories of our understanding, which

order the possible judgements that our faculty of knowledge may bring to bear on its intuitions, in an act of the understanding (Kant 1929). And hasn't Hegel already circumscribed Absolute Knowledge? Exposed its historical and dialectical movement as the process of consciousness; moving from its original, sensuous immediacy as 'self-certainty', through its recognition of 'self' through difference and otherness in the stage of Reason, to the ultimate level of his own writing as Absolute Knowledge, which apprehends through the sum of the previous two moments of knowing – both *in* and *for* itself (Hegel 1977). Where, then, does that leave us – and Philosophy subsequent to them? Beyond them?.... Is this intelligible?

We seem to have stumbled upon another conundrum posed by the idea of law and the limit it designates. Here, we are concerned with the sense of law as an invariable principle; an eternal truth, and therefore the order of philosophy itself. The announcement of the law, here, would seem to write itself as the historical closure; the final resolution or configuration of a problem posed. The pronouncement of this eternal truth or timeless principle, then, would seem to evoke an a-temporal space, and the marking of this law would bind the place of an arrested time – an eternal efficacy. Beyond this temporal limit, however, rages its other – the flux of history itself; an unknowable future. But it is not just a simple opposition that we have highlighted here, between the eternal and the contingent, but rather, a nagging tension between the positing, and acceptance of a law as an eternal truth, and impossibility of guaranteeing that it will *not* prove to be contingent upon history. Again we seem to be confronted by an impossible beyond; a future we *cannot* know, but which we yet predict with the pronouncement of our laws themselves as

immutable. But how do we accept and hold a law or principle to be true at any particular present, if we cannot know with absolute certainty that it will remain so – other than through an act of faith(?) Is this tortuous ambivalence acceptable? Is the naming of truth/law here still intelligible? Are we at another dead end? Perhaps another order of law is required here to ensure a safe and legible journey from this place. But what is left?.... God?.... Absolute Truth? Is this just semantics? Has it all been semantics?

Certain ideas that emerge from the corpus of Michel Foucault's work, on the relations between truth, history, and knowledge, seem to proffer a possible route through this conundrum.<sup>1</sup> He has suggested that there are no laws that are immutable or 'absolute', and truth therefore should not be regarded as an 'eternal' principle (Foucault 1977: 152). Rather, it should be recognised as contingent upon a certain code of knowledge; an order of things, inscribed in the discursive practices of a particular place. That is,

Truth is a thing of this world: it is produced by virtue of multiple forms of constraints.... Each society has its regimes of truth, its 'general politics' of truth: that is the types of discourse which it accepts and makes function as the true (Foucault 1980: 131).

Here, then, in the absence of an absolute or primordial truth, the concept of law exists only as the idea of subjection to a regime; a set of rules or codes. And this imposition would not be the result of an order of necessity; 'the certainty of absolutes' (Foucault 1977: 153), but, rather, is maintained by the force of power-relations. According to this Foucauldian position, then, law at

its most abstract is inherently authoritarian and, therefore, also violent:

Rules are empty in themselves, violent and unfinalised; they are impersonal and can be bent to any purpose ... humanity installs each of its violence in a system of rules and thus proceeds from domination to domination (Foucault 1977: 151).

In this schema, then, truth and knowledge become critical movements which serve to disguise this fundamental violence, legitimate it, and therefore enhance it. Truth, here, can be presented simply as 'the ensemble of rules according to which the true and the false are separated' (Foucault 1980: 132). It determines the validity of things, and thus also the hierarchy of values. This function of truth, therefore, is a manifestation of power, but it cycles *back* into the economy of power-relations by explicitly naming the values that determine the *form* of power in the first instance. Foucault describes this:

Truth is linked in a circular relation with systems of power which produce and sustain it, and to the effects of power which it induces and which extend it (Foucault 1980: 133).

Knowledge, too, is strategically invested in this schema of power-relations; conceived as the 'table' according to/on which things are ordered and encoded; the 'field of coordination and subordination of statements in which concepts appear, and are defined, applied and transformed' (Foucault 1972: 182-183). Knowledge, here, would partake in regimenting all conceptions; categorising all things, '[to] organise the play of affirmations and

negations, establish the legitimacy of resemblance within representations, and guarantee the objectivity and operations of concepts' (Foucault 1977: 186). It would, thus, determine the order of truth, and power itself. In this way, then, we could conceive that,

Knowledge and power are integrated with one another... It is not possible for power to be exercised without knowledge, it is impossible for knowledge not to engender power (Foucault 1980: 52).

Accordingly, a discourse is no longer compelled by some external motive force – an ideology or absolute truth – but, rather, emerges *just* as the interrelations of power, knowledge, and truth.

It seems, then, that the Foucauldian position we have described conceives of the relations between truth, knowledge, and power as the determining flux of a self-engendering, self-enhancing cycle; an immanent flow of forces that keeps itself vital. Here, however, the cycling schema of discourse, with its immanent forces that appear capable of perpetuating itself eternally, does not thereby re-inscribe a new 'kind' of immutability or immunity from extraneous sources. We can understand this by recognising the movements of discourse as engendering not only the boundary that circumscribes and determines a culture, a system of beliefs and values, but also, most importantly, as marking the limit-site of its own possible *transgression*. Foucault describes this notion:

The limit and transgression depend on each other for whatever density of being they possess: a limit could not exist if it were

absolutely uncrossable and, reciprocally, transgression would be pointless if it merely crossed a limit composed of illusions and shadows (Foucault 1977: 34).

According to this construal, then, the limit *exists* in its challenge to be transgressed, and transgression derives its sense of *being* in its moment of confrontation with the limit. But this relationship is not conceived as the simple movement of a linear breach which takes us from *within* the ordered confines of the limit into its dual opposition, the site of an anarchic and limitless 'beyond'. Indeed the aporia of the 'beyond' that we articulated previously is circumvented in this Foucauldian schema; the relations of truth and knowledge here is not subject to the linear logic we presented in our opening discussion. That is,

Transgression ... is not related to the limit as black to white, the prohibited to the lawful, the outside to the inside, or as the open area of a building to its enclosed spaces. Rather, their relationship takes the form of a spiral which no simple infraction can exhaust (Foucault 1977: 35).

The limit therefore does not exhaust truth/knowledge; its breach will not be the end of intelligibility. Rather, the moment of transgression is the moment that would write a new order of things. We move, therefore, not from truth to untruth, knowledge into the unknown, but from *one* discourse of truth to *another*, a moment of pure violence – a complete rupture that imposes a new law, a new discourse of truth, knowledge, and power.

This spiralling, transgressive movement of truth and knowledge, then, presents us with an alternative conception of

philosophy; one written against a certain traditional, linear metaphysics that 'designated the separation between the simulacrum on one side and the original perfect copy on the other' (Foucault 1977: 171). This 'representational model' of knowledge conceives truth as the ideal of re-establishing a unity with this originary, and therefore perfect object, and knowledge therefore would be completely and unilaterally dependant on this site of the origin. This endeavour, however, seems necessarily doomed to failure; its logic is inherently contradictory. That is, although the identity of the origin and original is upheld as the goal for knowledge, it is an identity that must also remain ultimately *beyond* reach – else knowledge cannot *arise*. This is because knowledge is always already a translation – always a knowledge *of* – and thus requires a 'space' for reflection. The attainment of complete identity or absolute unity with the origin/original here would collapse this space; there would be no possible room for 'knowledge' – all we would have is the holism of *being* this identity. Knowledge requires that the origin be *left*, in order to *begin*. And this necessary gap, this space of difference rent by knowledge, would seem to resist the possibility of a complete translation, a total reduction to sameness. Indeed, any attempt at such appropriation can only violate the very notion of difference itself – otherness cannot be made identical with sameness, else all we would have is more of the same. It is, therefore, a movement of contradiction. The goal of the 'representational model' of philosophy therefore, to locate truth as an absolute identity, does not seem coherent. Further, it is a move that seems either redundant, or impossible, for how would we identify an answer to *be* absolutely correct unless we *already* knew what that answer *was*? Yet, what *would* ensure an adequate translation if not the ideal of the origin/original? What *grants* knowledge of identity?

According to our Foucauldian position it is nothing more concrete than the relations of differences inscribed within a system or discourse; the origin is no longer primary. What we begin with is already a 'copy'; a translation. Yet neither do we simply have chaos either. The categories and laws traditionally conceived of as ordering knowledge and logic have not thereby evaporated, rather, it would seem that these acts of encoding and ordering are all we *do* have – with nothing further behind, or beyond them – guaranteeing them; there are no 'absolute axes of reference ... no privilege to any centre (Foucault 1972: 205). The law here, therefore, can be seen to designate the limit which defines knowledge, truth and the intelligible in a *particular* discourse. But, here, the limit also marks itself as a site that is infinitely transgressible. What lies beyond, then, is not the unintelligible, but the space for new concepts and new thought itself.

This Foucauldian conception of truth, knowledge, and discourse appears to have resolved the problems we originally faced of vicious regress with the concept of the limit and its beyond. Have we, thereby, negotiated safely through the dead ends that we confronted? What manner of space 'beyond' do we now find ourselves? According to our Foucauldian schema we would be in a new discourse of truth and knowledge – and presumably (if we were truly convinced) our acceptance of the validity of this thesis would compel us into the very framework and practice of its own regime of truth – till it, too, were transgressed.

And this immanent, conceptual web that is embodied by our construal of the Foucauldian position appears decidedly tenacious; its logic doubles onto itself to provide an almost

hermetic seal. It proves resilient against the criticisms of traditional logic which may ask: 'If truth, knowledge, and power are conceived as contingent, arbitrary, and essentially dependant upon each other, then what allows *this* thesis on the 'order of discourse' to be *more* viable than any other theory?' Certainly Foucault himself does not ever offer an explicit answer to this question; he never *directly* justifies why we should accept *his* view – he cannot without contradicting his own thesis on the contingency between truth, order, and knowledge. Is he thereby saying nothing? Certainly we must recognise that Foucault is not attempting to provide a theory of 'epistemological causality' here (Foucault 1994: xiii); a teleological expository that would impose a rigid configuration on 'what knowledge must be', or what an 'adequate theory' must logically 'prove'. Indeed, for Foucault, the point precisely is that there are no laws, or truths, that can vouchsafe the identity of these relations *definitively*; this would be his point of departure. He states,

my discourse, far from determining the locus in which it speaks, is avoiding the ground on which it could find support. It is a discourse about discourses: but it is not trying to find in them a hidden law, a concealed origin that it only remains to free; nor is it trying to establish by itself, taking itself as a starting-point, the general theory of which they would be the concrete models (Foucault 1972: 205).

The logic of the original criticism, therefore, can only *miss* Foucault's point. It becomes its own blind-spot, since its logic is precisely what is being criticised. As a reproach *against* the Foucauldian position, therefore, it seems ineffectual; it does not communicate at all, refusing to negotiate the thesis on the table of its own logic.

Yet, something remains troubling about the Foucauldian 'theory of discourse'. Here, however, it is not so much the weakness of its argument, but rather its strength that remains problematic. That is, although the Foucauldian position maintains that concepts, and thoughts, should be ever new and creative – achievable in moments of transgression, rupture and transformation – it remains difficult to imagine *how* we can transgress this doubly bound, hermetically sealed limit of the Foucauldian logic. How do we overcome the sub-structure of power/knowledge relations that defines all its forces as arising immanently? How do we transgress the limit of this Foucauldian thesis that has its own supercession and transgression written into it? Can we escape the total envelopment of its thesis? Here, it is perhaps the 'wholeness' of the Foucauldian logic that remains problematic – it still highlights the limit from *within*; giving one the sense of being on the inside of a balloon. The conundrum of the limit does not seem to have been truly dissipated here; we have simply been relocated *into* the *volume* of a *discourse*, rather than being on one side of the linear plane of reflection. The problem of the beyond, here, remains intact. The volume, which accommodates the structural complex of inter-relations that delimits a discourse, would just mark a further level of ordering beyond the merely reflective surface of a plane. This movement, therefore, has not truly dislodged us from the dead end of our original problem, nor from the linear logic of the limit and its infinite regress in the orders of law. And, indeed, there is the sense of an 'immutable law' disguised in this Foucauldian concept of discourse. Here, although the thesis affirms that culture and theory, power and knowledge are 'contingent', it seems to allude to the mode of their interrelationship as 'necessary'. But it is not possible to assert the necessity of this ordering or relationship

without resorting to some higher order of guarantee. And in his earlier writings Foucault *does* do this through his idea of the *episteme* – the ‘pure experience of order and its modes of being’ (Foucault 1994: xx). He writes,

the fact, in short [is] that order exists.... This middle region ... in so far as it makes manifest the modes of being of order, can be posited as the most fundamental of all: anterior to words, perceptions, and gestures (Foucault 1994: xx-xxi).

This idea of the *episteme*, construed as an ‘archaeological device’ – in that it does not serve to justify any one particular discourse – appears to remain here, universal and immutable in its own right. And although Foucault’s later work does not explicitly rely on the idea of the *episteme*, the very *nature* of his idea of the ‘regime of truth’ still seems to presuppose an underlying order of relations; a fundamental skeleton on which the qualitative relations of discourse are slung. Verily, then, although the Foucauldian thesis on the schema of discourse recognises and tries to address the paradox that seems necessarily to follow upon the idea of law and truth, it does not seem to escape completely from positing its own law in order to articulate and circumvent this very paradox. The conundrum of the law and its limit therefore – with its seemingly infinite regress of orders – is regenerated here, nonetheless.

So where are we left then? Irredeemably stuck at this dead end, with no place to go? Or is there a possible detour yet? In his paper ‘*Force of Law*’ (Derrida 1992) Derrida discusses the same aporetic relations between law, legitimacy, limits, foundations, and truth. His strategy, however, is very different. Unlike

Foucault, Derrida does not offer an explicit or definite thesis of knowledge or philosophy. Indeed, his method, which has come to be known as (D)estruction, alludes to the impossibility of such a move. Instead, it proceeds by invading other texts and theories so as to complicate and destabilise, and therefore question, the very foundations of its authority. This method allows Derrida to remain conscious at all times that his own writing is not immune from such an endeavour. Deconstruction, after all, 'deconstructs it-self' (Derrida 1991: 274). Thus he writes,

[A] deconstructive interrogation ... is neither foundationalist nor anti-foundationalist. Nor does it pass up opportunities to put into question or even to exceed the possibility or the ultimate necessity of questioning, of the questioning form of thought, interrogating without assurance or prejudice the very history of the question and of its philosophical authority. For there is an authority – and so a legitimate force in the questioning form of which one might ask oneself whence it derives such great force in our tradition (Derrida 1992: 8).

Thus, where the Foucauldian position posits the mode of 'thinking problematically' – questioningly, as a possible 'answer to the question [of Philosophy]' (Foucault 1977: 185), and therefore the law, Derrida would question questioning itself (Derrida 1982: xvi). And, here, there is no resolution proffered. Indeed, he would want to re-pose the question – to keep it in 'play', to

transform and deplace its statement ... toward examining the presuppositions of the question, the incitation of its protocol, the laws of its procedure, the headings of its alleged homogeneity, of its apparent unicity (Derrida 1982: xvii).

To throw into question, therefore, the very law of the law; which has traditionally been embodied by Philosophy – the authoritative voice *par excellence*.

In the paper, '*Force of Law*' (Derrida 1992), then, Derrida takes us on an excursus of this question. Here, he agrees with Foucault that the law is fundamentally violent; it imposes its authority in an act of complete rupture, with no preceding or superimposed legitimacy. At the limit which articulates its origin, therefore, we are confronted by a paradox; a moment of non-law, non-legitimacy. He writes,

Its very moment of foundation or institution (which in any case is never a moment inscribed in the homogenous tissue of a history, since it is ripped apart with one decision), the operation that amounts to founding, inaugurating, justifying law, making law, would consist of a *coup de force*, of a performative and therefore interpretative violence that in itself is neither just nor unjust and that no justice and no previous law with its founding anterior moment could guarantee or contradict or invalidate (Derrida 1992: 13).

And for Derrida, Philosophy names itself as this law; conceives of itself as the master of the limit which binds and arbitrates all truth. Yet it does so through no prior authority. Thus, it too is a reign of violence. He writes:

A discourse that has *called itself* philosophy – doubtless the only discourse that has ever intended to receive its name only from itself ... has always ... meant to say its limit.... It has recognised, conceived, posited, declined the limit according to all possible modes; and therefore by the same token, in order better to

dispose of the limit, has transgressed it. *Its own limit* had not to remain foreign to it. Therefore it has appropriated the concept for itself; it has believed that it controls the margin of its volume and that it thinks its other (Derrida 1982: x).

Yet crucially, although Derrida recognises that law and philosophy must necessarily be violent, he also recognises that they cannot simply be *just* that either; the idea of law is *not* equivalent to pure force or power – this relation cannot be equilibrated, even in the cyclical, co-determining schema of the Foucauldian ‘regime of truth’. There cannot be a perfect economy here with no residue or excess, since if this were the case then there would be no need for the idea of law or philosophy. Law, here, would simply be reduced to mere coercion, and philosophy as illegitimate could only ever be banal. What Derrida will suggest, then, is that in order for law to *be* law it must speak in the name of justice, and similarly, for philosophy to *be* philosophy it must speak in the name of Truth. Here, the moment of truth and justice must remain a necessary moment of otherness – an excess that prevents law and philosophy from becoming reducible to pure force or authority. It is a moment of ‘undecidability’ – of *differance*; meaning that is infinitely deferred, and infinitely differing. In this way, then, truth, law, knowledge and power cannot be completely equilibrated in the economy of a discourse. This is where Derrida differs from Foucault; the Foucauldian thesis seems to attempt to dispel the problem of the origin of law, by reinscribing it into a cycle of immanent generation, from the relations of truth, knowledge, and power. For Derrida, however, this tension is deliberately kept in play; the problematic origin and foundations of law and philosophy are not to be

circumvented, but, rather are maintained as paradoxical and mystical – undecidable. He describes this idea:

The undecidable is not merely the oscillation or tension between two decisions; it is the experience of that which, though heterogeneous, foreign to the order of the calculable and the rule, is still obliged – it is of obligation that we must speak – to give itself up to the impossible decision (Derrida 1992: 24).

The moment of paradox that is presented here is not simply the movement of oscillation between necessary, contradictory extremes, but rather is intensified to the moment of the ‘impossible decision’ that obviously *cannot* be made, and yet *must* be. This, then, is the idea of law and philosophy; the paradox of an ‘impossible necessity’ that conjoins the contradictory moments of both, violence *and* justice, self-named authority *and* truth. These moments are opposed to each other, and yet are necessarily implicated together. This is the double movement; of impossibility and yet necessity – undecidability (Derrida 1992: 19). It is marked as the space of conjunction; an ‘and’ that both separates and conjoins (Derrida 1992: 3) – that, like the Foucauldian position, writes itself against the either/or of linear metaphysics and binary oppositions, and resists the fixity of an absolute identity. Yet here, in this space of the Derridean undecidable, the limit no longer remains a clean boundary – whether as the boundary between opposite identities, or the space that is simply traversed to write a new order of things. The ‘logic’ of knowledge, truth and philosophy here is compelled neither merely transcendently, nor immanently. Rather it appears to be inscribed as an impossible space that *cannot* be articulated, and yet *must* be. He writes,

Can one pass this singular limit which is not a limit, which no more separates the inside from the outside than it assures their permanent and transparent continuity? (Derrida 1982: xvi)

For Derrida, then, the limit marks the site where 'the undecidable remains caught, lodged at least as a ghost – but an essential ghost – in every decision, in every event of decision' (Derrida 1992: 24). No simple or direct transgression is possible here; it is a space that remains neither simply inside nor outside, yet *both* inside and outside – like a wall or a frame that exists as the contradictory contamination of the two. The limit, therefore, remains an aporia that cannot simply be resolved or overcome, passed over, or passed through. Derrida, therefore, prefers to occupy its margins in order to interrogate the margin; to reveal the impossible closure that the limit tries to inscribe, whether as law or as the authoritative voice of philosophy. That is, his writings

*in fact* ask the question of the margin. Gnawing away at the border which would make this question into a particular case ... to blur the line which separates a text from its controlled margin.... [To] interrogate philosophy beyond its meaning, treating it not only as a discourse but as a determined text inscribed in a general text, enclosed in the representation of its own margin (Derrida 1982: xxiii).

Derrida's writing, therefore, remains infinitely self-conscious; questioning the margin, yet ever conscious of its own necessary marking. It doubles and re-doubles on itself to resist any kind of resolution – even the tensive 'unity' articulated in Foucault's power-knowledge relations. The tension between law/truth, force/power and the limit is not ever dissipated here; never reabsorbed

into the movement of the discourse that uses the law to reinforce, force. The limit is neither completely closed, nor completely breached; the law and philosophy cannot ever fully justify itself, and yet, it *must* assume this integrity; as law, it can *only* assume it. The paradox is kept in play here; our aporia or dead end remains. Yet, this does not mean that we have nowhere to move, instead, we are confronted with an infinite set of deferrals and detours; a movement of *differance* (Derrida 1982: 1-29) – the experience of impossibility and undecidability itself. And, indeed, Derrida will suggest that all these dead ends have been one and the same, that, ‘in fact there is only one aporia, only one potential aporetic that infinitely distributes itself’ (Derrida 1992: 22). It manifests itself at the site of the limit, as the aporia of uncaused, cause; the ‘law of the law’, as a law *without* law – a Philosophy that names itself – translations with no origins.

## Notes

I am not attempting to present a detailed critique or exposition of the works of Michel Foucault here. Rather, I simply intend to borrow various ideas that emerge from the source of his writings to establish a possible philosophical position, which I refer to as ‘Foucauldian’.

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