Perpetually Astride Eden's Boundaries: The Limits to the 'Limits of Law' and the Semiotic Inconsistency of 'Legal Enclosures'

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Abstract

Legal systems can be metaphorically taken as semantic and pragmatic enclosures. The ancient world has given us at least three literary loci that display the self-disruptive significance of this kind of metaphor if assumed as a practical guideline in the attempt to steer human experience. The first such loci can be traced in biblical Eden; the second one in the Phaeacian garden described in Homer's *Odyssey*; the third in the stories of the first and second mythical Athens included in Plato's *Timaeus* and *Republic*. In all these tales, human beings ineluctably end up straying across the semantic-spatial borders which certain categories and rules have given them to encompass their experience. All these literary loci offer both a semio-cognitive and a constitutional lesson for lawyers and sovereigns. My intention is to exploit these lessons to show that the most relevant limit of legal systems, if taken as semantic and pragmatic enclosures, consists precisely in their inability to constitutively limit themselves and their semiotic borders. This inaptitude is due, in my view, to the semiotic 'exceedance' of the phrastic, or descriptive parts of legal rules even more than the semantic vagueness of the values underlying their legitimacy. Any attempt to define the semantic and spatial boundaries of human experience by means of verbal enunciations implies the use of categorical schemes to define the legitimate and/or forbidden behaviors. But categorical schemes, in turn, comprise boundaries that draw protean verges between the inside and the outside of each category. The categorical 'inside' compellingly tends to exceed its borders so as to protrude out toward what is outside the category. In turn, the 'outside' shows, more often than not, continuities with the axiological/teleological patterns underpinning the semantic boundaries of legal rules. Any attempt to limit the competence/extension of law, if taken in its semantic/spatial significance, would seem to unveil what law could or should be, but is not. Relying on the above literary loci, I will try to demonstrate that this apparently contradictory implication is inherent in the dialectic between equality/universality and difference/plurality that makes up categorization itself, and thereby the semiotic prerequisites to considering any legal rule.

Keywords Semiotics of law · Legal theory · Conceptual boundaries · Metaphors · Law and space

1 What or Who Is, or Should Be, Limited?

Questioning about the limits of law raises the question of whether law has limits and—if so—what kind these limits are or (meta-theoretically) should be. In addressing these issues, there are two levels of discourse to be distinguished (at least operatively): the limits of law and the limits of the lawyers' or legal experts' discourses (either scientific or practical) about law. My preliminary assumption is that they cannot be considered as coextensive. Though law cannot speak by itself but requires always a sign-interpreter giving it utterance, it maintains in any case an irreducible exceedance with respect to the conceptual (or ideological) topographies superimposed on its experiential scope.

As a social phenomenon, legal experience is imbued with social matters and events; law, on its side, permeates social dynamics by virtue of its prescriptive attitude and conformative efficaciousness. Consequentially we have to pay attention not to conflate the disciplinary limits assigned to the study of law with the limits of law in and of itself. I can understand that such a distinction is both epistemologically and culturally very difficult to draw. The study of law can influence its practitioners in their conception not only of the law itself but also in how their tasks should be accomplished. Nonetheless, the above distinction is worth being traced if only because otherwise any assessment about the alleged limits of law would run the risk of being aprioristically, if not prejudicially, affected. Even if law itself is a prescriptive social and communicative phenomenon, I assume that any assessment about its limits should refrain from stating, more or less explicitly, what law ought or ought not to be.¹ On the other hand, disciplinary academic fields and social domains should not be considered as isomorphic. Though this argument may move on slippery ground, legal research and law as experience should be considered two different dimensions of the social universe.

Modern thought has engendered a veritable forest of conceptual divides. Regardless of any judgment of their alleged ontological plausibility and/or their pragmatic functionality, they have been followed by a supererogatory production of academic and disciplinary divisions and, in too many cases, compartmentalizations. Over time, unfortunately, all these distinctions have been reified and, by and by, mistaken as empirical and experiential provinces. However paradoxical it may appear, the necessity to distinguish the limits of law from the limits of lawyers stems from the need to avert, as far as possible, the superimposition of the disciplinary divides inherent to the study of law onto the legal experience as such. To put it roughly, I believe that an analysis of law's limits should defuse the compulsive tendency, so typical in academic circuits, to separate the respective areas of expertise from one another, often waving scientific exigencies only to camouflage undue ideological or power-related

¹ ... which, *inter alia*, is also the criticism that Ross [92] raised against Kelsen [52].

interests. This attitude aprioristically prevents any endeavor to consider legal experience as part of a the social *continuum*, since it is pre-assumed as something divorced from other social phenomena and, furthermore, inherently haunted by separate, distinct, incommensurable, or ontologically autonomous domains. Just to avoid any misunderstanding, I do not wish to deny the usefulness of distinctions. Conversely, my aim is to adopt a more productive approach, consisting in an attempt to see legal experience 'as a whole' so as to grasp the cultural ground of the alleged divides and, at the same, prevent any inconsistent circularity between the limits of law and those pertaining to previously pre-boxed areas of academic, institutional and professional competencies.

In the above direction I would like to start looking at the limits of law as limits of its language and its communicative signification. But since all languages are imbued with some degree of normativity—that is to say: semantic boundaries²—this task will necessarily morph into the examination of the semantic scope of legal discourse, its constitutive elements and its relationships with other languages: from natural ones to the constellation of scientific languages. The overall issue, in this way, will assume the guise of a preliminary inquiry assessing:

- (a) whether legal language is self-sufficient or rather relies on co-constitutive relationships with other languages;
- (b) whether an autonomous legal language actually exists or can be imagined as such without compromising both the semiotic coherence (isotopy)³ of legal discourse taken as a whole, or jeopardizing the same ends inherent to legal experience.

In this regard, I would like to point out that a reduction of legal experience to linguistic or merely performative acts is just as far from my approach to the topic at issue. Conversely, as legal experience is necessarily mediated and carried out by means of language and communication, it seems to me simply impossible to talk about the limits of law without ascertaining the *semantic* limits (or, vice versa, the amplitude) of its language. Of course, when one says 'legal language', s/he is

² My view about the normativity of meaning and linguistic content has to do, however, with the intermingling between facts and values (or better, empirical language and axiological/deontic language) in the process of signification; it is very far from the strict normativity connoting the analytical approach to this issue. 'Analytics' seems to conceive of 'meaning normativity' as rule-based rather than, as I do, as values/ends grounded, entailing thereby also the axiological plasticity and the means/ends dialectics. Actually, my Peircean/Deweyan and enactivist semiotic approach to 'significance' and the related interplay between factual data and values/ends fueling the unfolding of experience, is at sidereal distance from the anti-realist and rule-based truth-condition theories undergirding most analytical philosophical writings (Tarski, Kripke, von Wright, Dummet, etc.); and this despite the varied forms of criticism that these authors articulate about Wittgenstein's semantic normativism/conventionalism, or their claim to qualify as 'realist' a theoretical approach focused on the objective truth-value of (a class of) statements: in this regard, see [Dummet 30: 146 ff.]. Needless to say, a semiotic realism stems from epistemological assumptions that are very different from the referential realism or cognitivism to which analytical logic refers. In any case, on the issue concerning the 'normativity of meaning' from a logical-analytical perspective see, in a huge literature [38], and therein for further bibliographical references on this topic.

³ The word isotopy echoes Greimas [39] and the related conception proffered in his *Sémantique Structurale*.

implicitly positing the existence of other kinds of languages, the ‘natural’ one (no matter what it ultimately might be) before any other.⁴ The initial question shifts, as a consequence, to what limits are implicitly used to ‘enclose’ the semantic field of legal language and its pragmatic bearings/implications. Immediately afterwards, what is to be ascertained is whether those limits correspond to the actual extent of legal language; or rather, if they are to be overcome or instead reduced even further, according to the real scope of legal language and, eventually, of law itself (to be intended as legal experience).

If the subject-matter ‘the limits of law’ is to be treated from this perspective, then it requires a semiotic analysis, or at least a semiotic approach cannot be overlooked. For this reason, I propose to assume as the next step of my investigation some passages of Greimas’ socio-semiotic reading of legal language. His structuralist reading of law, precisely because it ultimately relies upon disjunctive distinctions, is the most suitable for checking the limits of legal language (and thereby the limits of ‘the limits’ which are commonly assumed). Though his analysis is focused on a specific cultural area of legal experience (precisely the Western secularized and democratic one, and more precisely French Law), I will try to briefly propose some suggestions regarding its applicability to other kinds of law (for example, religious, and the related limits, ‘if any’).⁵ I take as a premise that, *a*) cultural relativity is to be considered as an inherent and constitutive feature of all structuralist semiotic approaches; and that *b*) any discourse about the limits of law should be preceded by a preliminary clarification of what ‘law’ or cultural declination of legal experience is at stake.

Consider, thus, the following passages of Greimas’ essay titled, ‘*Semiotic Analysis of a Legal Discourse. The Trade Act on Corporations and Company Groups*’ (1976)⁶:

For the above reasons, we have to focus on how the two isotopies constitutive of the legal discourse distinguish from one another: respectively the legislative and the referential level of the discourse. The links between these two levels, even if deserving of a deeper analysis, seem to be, at first sight, as follows: the legislative discourse continuously relates to the significations encapsulated in the referential one, as if the latter were not only isotopic but also isomorphic to the ‘reality of the world,’ and also pre-existed the legal discourse. In this way, the legal discourse would say nothing but things the existence of which is self-evident in and of itself. In other words, it seems

⁴ In the semiotic field, and especially the structuralist one, ‘natural language’ is a sort of pre-assumption, in a sense a kind of *noumenon*, the existence of which seems to be methodologically postulated rather than precisely defined—maybe, even because any postulated ‘natural item,’ as soon as it is evoked, seems to ineluctably sink in a semantic twilight zone..

⁵ I say ‘if any’ because the limit of religious laws in modern society are external ones, as such a consequence of secularization. Conversely, from a prospective internal to religious law, and more broadly to the religious domain, any limit is to be considered as a self-limitation, and then an expression of the all-comprehensive cosmological and cognitive approach connotative of the majority of world religions.

⁶ The original title of the essay was: *Analyse sémiotique d’un discours juridique* [40]. The translation of the following passages is mine. However, an English translation (Perron, Collins) was published in 1990. The above passages, though differently translated, can be found also there: [40: 102 ff.].

to assume a kind of logic of presupposition coextensive with the *semiotic phenomenal appearance*. Actually, when the legal discourse picks up the elements of natural language, it is simultaneously bestowing on them the status of elements of referential level so as to integrate them within the legal discourse. Moreover, in this way, the legislative discourse sets it closeness with respect to the other significations surrounding those elements. In the specific perspective of the *semiotic being*, the legislative level is therefore to be rightfully considered as previous to the referential one, as one is the presupposition of the other.

Actually, languages, if taken according to the entirety of the significations they produce, can and should be analyzed by focusing on their adaptation to 'natural' semiotic systems, (namely the non-linguistic and/or the economic, social, etc. ones), with respect to which the same languages result, if considered in their sub-articulations, more or less isotopic. A 'worldview' is to be intended as the organization of an idiomatic semantic projection taking shape through a given natural language. That a specific worldview is 'distorted' and 'deforming' if compared with the natural semiotics to which it corresponds—either for historical reasons (when a linguistic semiotics survives the transformations inherent to natural semiotic practices), or for social ones (when a linguistic semiotics is in tune with the natural practices of the dominant classes and circuits)—this is indeed a really crucial problem: the analysis of which, however, pertains to the general semiotics.

The same likely also applies to the sense of 'reality' regarding the referential isotopy of the discourse: it compels the reader to consider it as something endowed with social verisimilitude, if not even as a logical a priori that describes and organizes the legislative 'words.' On the other side, such an illusion of reality covers, in another way, the whole legal discourse and bestows on the legal definitions (corporation, management board, assembly, etc.) the status of autonomous *semiotic objects*, which are provided with personality, quasi-organic functions, etc., so as to transform, in other words, *discursive objects*, made only of words, into *semiotic objects*, organisms or institutions. This is the reason for which the social connotation, despite being a set of meaning effects, turns into an autonomous symbolic dimension, which explains the importance of legal discourse and the credibility of legal institutions.

The lexical recurrence, in turn, legitimizes us to assume the pre-existence of an autonomous *legal vocabulary*. This vocabulary is nothing but the expression, in a lexical form (words, expressions, etc.), of a particular semantic universe which we can call a *legal universe* [...]. All this is consistent with our initial hypothesis: we elaborated the idea that the text to be described relies

upon a legal semiotic insofar as it is the product of a grammar and the expression of a specific semantic universe.⁷

The legal system, if taken in and of itself—as an absolute set of words which establishes a conventional and explicit order of the world—and in accord with its inner organization—that is, which calls into existence, just because its enunciates them—beings and things by assigning them specific functions, demarcated by prescriptive and interdictive rules—shows a solid and fixed architecture, given that the immutability of law is precisely one of its main connotations. This, however, does not impede the system from the possibility of evolving, complete and transformed exactly by virtue of the legal discourses (arguments) which continuously renew and project their innovations onto the same underlying system.

The above passages of Greimas' essay on semiotic legal analysis show the structuralist tendency to consider and set the discursive universe of law as a semiotic one including in itself also its referential level. Nonetheless, what this approach does not consider is that law is unable to create by itself the sufficient conditions for its effectiveness. A pure solipsistic performativity of law—at which Greimas seems to be hinting—is only a chimera.

In my view, the impossibility of law's self-bounded performativity does not depend on some sort of referentiality between the legal discourse and its social consequences taken as a social object, a sort of pre-existing level of reality, as such distinct and against legal statements. I think that it is not the case if only because⁸ any comparison with a reality captured in a pre-semiotic status⁹ is simply farfetched and

⁷ Hereinafter, until the end of the paragraph which is reproduced here only in part, Greimas continues his attempt to 'circle' the discursive universe of law as a semiotic one including in itself also its referential level.

⁸ ...this time partially in tune with the structuralist semiotic assumptions, which, in turn, seem to be—at least, in this respect—very close to the phenomenology of perception proposed by Merleau-Ponty [70].

⁹ A warning for the reader. S/he should not be surprised if, in this essay, s/he finds few referrals to the philosophical analytical legal approach to the relationship between the law's deontic language and 'natural' or 'common' language. This absence depends, at least, on four crucial factors: (a) the analytical legal approach has its bedrock in a methodical and almost compulsive highlighting of the semantic distinctions in the attempt to find an ultimate clarity as to the meaning (treated as truthfulness and/or validity) of legal statements; such a pursuit is carried on, however, against the foil of a pre-assumed stillness or self-evidence of the (cultural) semantic background by virtue of intuition or convention; (b) the theory of semantic referentiality (to the 'real' world) undergirds analytical research on legal meanings, even in its pragmatic and modal declinations, and thereby poles apart from any semiotic view and, especially, from those including the dynamic dimension of semiosis; (c) finally, and in radical contrast with semio-pragmatic theory, analytical legal theory assumes a sharp, if not even ontological, distinction between informative (descriptive) language and informative (descriptive) prescriptive language, which *inter alia* mirrors both the is/ought and fact/values divides. However, it would be seriously misleading to claim any parallelism between Greimas' idea of law's absolute performativity and the analytical legal theoretical inferences drawn from notions of 'performative utterances' and 'speech acts' as conceived by Austin. On the other hand, and in opposition to many analytical theorists, I do not believe that the meaning/content of prescriptive statements cannot be autonomous and different from that expressed by descriptive propositions: which applies—to be even more explicit—also to the *lessems* signifying 'facts or object' in the world. Rather—as I will argue below—the axiological/normative features of factual/descriptive words/statements convey the co-mingling of prescriptive language and descriptive language and their recipro-

not viable. The world defined by our perceptions, and therefore through our senses, is already a semiotically speciously selected world. Any perception, when it reaches the level of consciousness, is already the result of a chain of inferences. All semiotic dimensions and universes of discourse concur to mold their world. The linguistic dimension dialogues with the perceptual semiotic universe and influences the use of senses and its results, as well. In other words, there is no material reality placed 'out there' which the linguistic universe represents and refers to, but rather a regime of correlation between different semiotic dimensions, including also what is usually called 'outer reality.' Differently from the structuralist approach dating back to Hjelmslev,¹⁰ however, I do not share the assumption that the semiotic universe of expression (comprising different kinds of languages) and the perceptual semiotic one should be considered structurally linked by a relation of homology. My position is due to the idea, rooted in pragmatist semiotics (Peirce; and, even more, Dewey) and in the non-representational,¹¹ enactivist psycho-semiotic approach to cognition, that words and verbal expressions do not serve the function of *figuration* [7] but rather work as instruments involved in the construction of experience. Of course, this does not imply that representative and figurative functions are insignificant. Words, as well as all symbols, are rather means involved in the unfolding of life. Hence, even a retrospective description or figuration of experience is to be grasped not as a source of ontological entities but instead as 'another' means to carry on the experiential sequence. This also implies that the words' (or verbal statements') condition of truthfulness (in Greimas' terms the '*régime de véridiction*')¹² should

Footnote 9 (continued)

cal transformative interpenetration. The denial of any autonomous meaning to prescriptive language is grounded on a previously assumed divide between it and the descriptive one, a divide I cannot support. In any case, the analytical approach, in all its declinations, relies upon an implicit assumption, namely that the boundary conditions related to the production, use and communication of symbols are culturally homogeneous or shared. And this leads to (d): the analytical approach's (and not only the legal one's) presupposing a frozen, or allegedly 'already given' semantic universe—whether it is considered to result from an intuitive/empirical referentiality or, rather, from conventional rules. The overall dispute on the normativity/non-normativity of meaning and its relationships with truth relies, in any case, on a semantic *status quo*. It does not address the issue of the production of meaning and, indirectly, the making of cultures and their anthropological motors: which is, instead, the main concern of my investigation about the limits to the 'limits of law.' Also because of my commitment to the development of an intercultural use of law, I think that the above pre-conditions, and especially those referred to in *c*) and *d*), make inappropriate the analytical views to face the current legal experience and the cognitive/cultural problems it involves—not to mention that in the spectrum of an all-comprehensive, ongoing and open semiosis the analytical divide/dispute between cognitivist and non-cognitivist ends up becoming almost meaningless.

¹⁰ The referral is to Hjelmslev's *Prolegomena* (§§13–14); however, as regards the homology in Hjelmslev's theoretical approach to the relationship between *expression* and *content* (*content/form and content substance*) see [7].

¹¹ See [101, 1].

¹² Greimas [41: 103–113] was extremely explicit in recognizing a close relationship between the semantic '*régime de véridiction*' and the (relative) cultural homogeneity of the community hosting the communicative acts in turn under examination. The 'Babel effect' of a breakdown of an assumed cultural homogeneity would produce—in Greimas' words—a collapse of communicative trust (or reliance). The only remedy to such a condition of communicative and alethic bankruptcy would be a renewal of the semantic social contract which bolsters and holds together any communicative community. But if this is the case with the structuralist semiotic—as well as with an analytical approach to meaning—what about, then, the communication and signification perspectives in multicultural contexts or in socio-culturally

be considered to be constitutively incomplete, pending and in waiting for updates because truth (as Peirce would say) lies in the future, exactly as the meaning of phenomenal ‘*reality*.’ Needless to say, this approach determines, at least tendentially, an asymptotic conflation or co-generative interpenetration between values and facts—a preliminary warning whose implications will be developed and analyzed below in my subsequent arguments about the limits of law.

Focusing once again on the relationship between the linguistic universe and the perceptual one, I think that each always keeps some degree of exceedance with respect to the other. Everyone accepts as a fact that the sensory universe cannot be completely translated, or even better, *transduced* in linguistic expressions. Symmetrically, however, the linguistic expression also encapsulates a potential exceedance of meaningfulness with respect to the already experienced collections of sensory perceptions able to influence the ongoing perceptual involvement of a subject with her/his environment. Symbolizing the perceptual discourse surely yields important advantages, first of all the possibility to use symbols to plan future experience and manipulate its elements in order to adjust human ends with existing environmental constraints. Nonetheless, linguistic categories comprise distinctions hinged on checklists including properties (denotative elements)¹³ and connotative element which, as such, are signified by means of other elements endowed with a semantic general scope. This entails the possibility (that is virtually the rule) that such elements can be—and actually are—employed to define other categorical checklists, which in turn implies their trans-categoriality.¹⁴ The potential trans-categorial ubiquity of properties and connotations makes it so that symbolic categorization involves a paradoxical epiphenomenon: which is to say that the definition of categories traces an enclosed frame of elements and, at the same time, opens it to other categorical domains. To put it differently, in order to define its semantic frame, categorization singles out and combines properties and connotations; but because of their trans-categoriality, these simultaneously relativize the categorical borders making them ambiguous. The most important implication of such relativity is that once a category

Footnote 12 (continued)

undetermined changing contexts? That is to say, in most of the contemporary experiential conditions? Are these conditions beyond the scope of a semio-structuralist and philosophical analytical approach to communication, truth, meaning and ... thereby law?

¹³ Hereinafter I will no longer use the word ‘denotative’ or ‘denotation’ as I think that there is no ontological distinction between the denotative elements and the connotative ones of lessems (or concepts). Figurative and molar uses of words can reverse roles depending on the contextual/teleological framework. This process relies upon the possibility to shift the semantic components of a lessem (or concept) so as to make central what was previously assumed as peripheral, and vice versa. For a wider description of such process, including the exemplification of its pragmatic consequences, see Ricca [79–81, 84, 85].

¹⁴ The notion of trans-categoriality can be nestled within different theoretical frameworks. It can be related, although with different nuances, to Wittgenstein’s ‘family resemblances’, Lakoff’s ‘radial categories’ [56], Deleuze’s ‘rhizomatic semantics’ and its Spinozian genealogy, Peirce and Dewey’s ends-oriented semiotics and logic. An amazing antecedent of these approaches can be found in Al-Jahiz, an Islamic thinker who lived during the 9th C.E. in his post-Aristotelian theory of inter-categoriality: see [71, 88].

has been framed, it will become difficult—at least in some cases—to distinguish what is inside and what is outside its semantic borders.¹⁵

In any case, the categorical checklist does not sever the connection, and thereby the dialogue, with the perceptual universe of discourse. This is because despite its abstractness and generality, the actual checklist of each category—or what is processed when we think of a word as well as its figurative/sensorial transpositions or equivalences—coincides with an epitome of previous experiences and their inter-related elements. This epitome, in turn, through its iconized form (icon+hypicon, according to Peirce), gives us the pattern to organize our mental processing and eventually our present and/or future actions through the environment. Since the word/category binomial sums up previous experiential dynamic contexts, it also includes synesthetic¹⁶ perceptual processes that constitute the embodied and

¹⁵ A crucial caveat. I do not adhere to the conception of category that is proper to structuralist semantics. I do not think, according to a semio-structuralist definition (for a concise exposition see [7]) for which 'category is a relational structure consisting of elementary constitutive oppositions such as up/down, white/black, life/death, culture/nature, etc.' Rather, my conception of category is very close to that of [56], who considers categories as radial sets of properties and connotations—even if I think (and in this aspect in tune with Ricoeur [89, 90])—that the denotative and the connotative belong to a semantic *continuum*. This implies that the 'denotative' or the 'connotative' are interchangeable because the elements of each of these sets can pass into one other according to the semantic salience that culture bestows upon them.

Consequently, I do not comply with the structuralist distinction between the objective structure of the concept and the object. Following this distinction, the concept could be disjunctively decomposed on the basis of oppositional relationships; the object, taken in its materiality, could be decomposed on the basis of its constitutive parts. In accordance with this two-track discompositional analysis, the general concept of a thing, for example a glass (and the proposition listing its conceptual elements), would result from the oppositional comparison with what is to be considered the opposite of a glass, namely a non-glass (and the proposition listing its concept). But who can determine the oppositional ground? On the other hand, the discompositional analysis of an object would coincide with the filling of a checklist of properties (and—with some reserves, connotations). The problematic point is that the opposition relationships have to do with the constituent elements of the checklist, because, in many cases, it is sufficient that the semantic salience of an element included in the checklist changes or fades away for the opposition relationship to vanish. In other words, the disjunction is construed on an element of the checklist: all the play depends on the semantic salience attributed to the element of the checklist in the definition of the object, namely on the centrality or peripherality of each element in the definition of the object-related category. But if we assume a radial conception of categories, then centrality and peripherality are interchangeable positions depending on culture and the endless work of re-categorization. From this point of view, I think that the theoretical construct of structural semantics can be useful only insofar as we consider languages as static entities. Nevertheless, all the structuralist dynamics of transformation seem to me nothing but a sleight of hand: a way of foisting the same structure also on what is changing by means of mystifying equivalences or substitutions. This is possible because the structuralist transformations silently make use of the interchangeability among the semantic salience or the central/peripheral location of the categorical elements placed within the radial frame of each category. Similar observations can be made for the analytical approach to meaning, its normativity and truth. To give but an example, see [37] and his proposal, echoing Quine's approach to translation, to distinguish the meaning of an item (a rabbit) the normativity of concept from the 'naturalness' or 'contingent conventionality' of its properties. Such an approach, however, if assumed as a guideline in quotidian substantive legal reasoning, could end up camouflaging an ethnocentric essentializing metaphysics of meaning under the rhetorical dome of abstract, if not even universal, logical rules—likely even underplaying or avoiding coming to terms with Kripke's 'infinite regress' skeptical paradox, on which, see [4].

¹⁶ See [2, 11, 26, 61, 70]; as for the enactivist approach to cognition, see [14, 27, 36, 47, 72, 96, 100, 102].

spatialized dimension of the epitomized experiences. From this point of view, it is possible to assert that categories and the use of words implicitly presuppose and involve the projection of a spatialized semantic dimension which is continuous to the spatial aspects of human experience and cognition. From this perspective, each category could be understood as a post-experiential and pro-active pattern that does not statically give a figuration of the perceptual/natural universe of discourse but rather points out an operational scheme for our action to proceed in and through the environment. In this sense, categories serve as signical tools that summarize and put forward *situations* to be developed by means of the mental attentive disposition and its proactive attitudes.¹⁷

With respect to the above situations *suggested* by words and categories through their discursive combinations, the elements of the categorical checklists function as means to an end, which in turn define and encapsulate the contextual frame resulting from the processive sequence of means. The assumption that the elements of each categorical checklist can be read as constitutive/processive means, the sum of which results in the meaningful situation *suggested* by the category (and the use of words), is a crucial acquisition in the analysis to be carried out here. This is because it makes possible a more extensive envisioning of the implications ensuing from the trans-categoriality of the terms included in the checklists that compound categories.

Trans-categoriality, if put against the backdrop just outlined, somehow overlaps with the potential poly-functionality of each means to different values/ends, and thereby to different situations or contexts of signification.¹⁸ The elements/means of the categorical checklists comprise quantities, qualities, emotive affections/feelings, other categories and/or sub-categorical elements, properties, etc. All of them, in any case, are open to being transplanted into different categorical/situational/teleological frames/contexts. Each of them can evoke or recall in a poetic fashion (to be intended in Bachelard's terms)¹⁹ other categories or spaces of experience that

¹⁷ With regard to the explanation of the conception of what 'situation' means, see [24: pp. 67 ff.; 105 ff.], who indirectly conjures up Peirce's conception of 'feeling' in the construction of the relationships between *thirdness* and *firstness* through the mediation of *secondness* [75]; and furthermore Kant's 'Transcendental Schematism.' On Peirce's 'firstness' and 'feeling,' see [10].

¹⁸ The relationship between values/ends and meaning is considered, here, constitutively inherent in meaning and the overall process of signification. Once again, my view here splits from the analytical one, as does my idea of normativity and that attached to meaning by normativist analytics. (Concerning law, see, for example, [54]). When I use the term 'normative' with regard to meaning, I refer to the ineludible role of values (even cognitive values) in the definition of categorical checklists. On the other hand, my conception of ends—assumed as the pragmatic flipside of values—is holistic and thereby relational (in this sense, see [25]). Thereby the genuine meaning and worthiness of an end cannot be ascertained outside its semantic and pragmatic relationship with the whole constellation of ends and values (at least potentially) involved in human action: which, moreover, makes the understanding of values/ends as well as meaning an endless task (as such distinguished from the Aristotelian comprehensive eudaimonism based on the so called μεσότης [mesotēs] or golden mean between essentialized categorization of extremes). From this angle, the Weberian distinctions between goals/ends and values loses most of its significance, just as any narrow-minded conception of instrumentality results in a false judgment, if not even an aberrant one. But this contingent instrumentality is exactly the same one taken in account by the analytical theories of meaning: and in any event, if one considers their pre-assumptions, it could not be otherwise.

¹⁹ See [2].

are radially connected to those presently at stake. Furthermore, however, they are also able to function as bridges to merge different categories/situations/spaces so as to draw new *significant* borders. But this is nothing but the processive activity of critical renewal that thought and action release in the assessment of what is 'in' and what is 'out' of the categorical/situational frames, and ultimately the consistency and appropriateness of categories in relation to values and ends (more briefly, *axiological/teleological* indexes). In any case, such *axio-telic* indexes or standards are circularly embedded in the cognitive/experiential process by virtue of the means/ends dialectics, and therefore cannot be assumed as immutable *apriori*. Conversely, just as ends qualify means and, in turn, are constitutively molded in their signification by the cumulative sequences and combinations of means, indexes and patterns for the assessment of the suitability of categorical/situational/spatial frames undergo a progressive, even if graduated and weighed, remolding (or, at least, it is and should generally be so, barring a catastrophic upheaval of the ordinary boundary conditions).

If seen in this way, the trans-categoriality of the elements constituting the categorical checklists calls into play their metaphorical openness, namely their attitude to prompt thought activity to draw lines or threads of semantic continuity between different categorical/situational/spatial frames in view of their potential and creative overlapping. More generally, however, this metaphorical attitude points to an openness to Otherness as inherent in any categorical/situational/spatial frame (*enclosures*) regardless of the kind of language or universe of discourse in which it is *semi-otized*. In this respect, however, a crucial caveat is to be put forward.

'Otherness' should not be intended here as synonymous to 'Opposite' according to the structuralist logic of antonyms that lays the essence of signification on oppositions. The adoption of a radial conception of categories cannot align with such an approach to signification, and even less a view—as mine is—inspired to pragmatism and enactivism. Meaning—I agree—is always blossoming amongst differences but the areas of signification have fringed borders with Otherness, the proximity or the remoteness of which cannot be reduced or, sometimes, has very little to do with 'Opposition.' Conversely, the *calculation* of what is 'opposite,' and previously the ground on which it is made recognizable, should be considered to be a consequence or a byproduct of an assessment of the scrutinized lessems' semantic proximity or remoteness, which actually is also a *spatial/experiential* issue.

On the other hand, if the elements of a categorical checklist are considered as means—as noted above—their trans-categoriality can also be considered symmetrical to the potential ascription/pertinence of each means to various and different ends. Put another way, trans-categoriality can be seen as an implication of, and related to, the means' teleological plasticity in *producing* the achievement/implementation (and thereby also the signification) of multiple and disparate values/ends. The interplay between ends and means, in turn, in their mobile combinations, implicitly outlines spaces of experience, or situations. By virtue of the above parallelism between the element of each categorical checklist and the category itself, on one side, and means and ends, on the other, it seems then possible to infer that the elements of a categorical checklist can be virtually simultaneously present in a multiplicity of spatial as well as semantic frames (or *spans*). Hereinafter I will refer to this multi-sited

presence in both categorical spectrums and experiential spaces as a trans-categorical and trans-spatial continuity or spatio-semantic *continuum*.

The above spatialization—as already observed—is a consequence of the psycho-cognitive disposition to embody categories as instruments endowed with a proactive relevance. This is because the function of categories is not exclusively a representative one, as rather and foremost one of orienting and conveying human action in the world. Actually, it also affects, although counter-intuitively, the more abstract kinds of categorization.²⁰ In many cases, the trans-categoriality of the checklist's elements triggers metaphorical processes, which *makes space* for new significations and, sometimes, the creation of new categorical-spatial frames, as such “third” with respect to the semantic dominions originally involved in the generation of the metaphor. What occurs in such cases is that the semantic spectrums of different categories merge into one another, involving the *situations* and the *experiential spaces* orbiting around them as a halo.

Cognitive (and not only rhetorical) metaphors, however, creatively transmute the trans-categoriality of checklist elements (and related spatial/experiential frames) in semantic continuity. In other words, semantic continuity (or, more traditionally, similarity/analogy) is not to be regarded as something presupposed to the metaphorical process, but rather its result. Metaphorical process is an activity of re-combination of different categorical frames: in turn, *in metaphorical terms*, a reconciliation between reciprocal Otherness.²¹ The trans-categoriality of categorical elements (including both properties and connotations) as such is only the potential conveyor of metaphor. Semantic continuity based on trans-categoriality is instead coextensive with the metaphorical process, which defines anew its own situation of signification and experiential space.²² All of this occurs—it is to be emphasized—beyond and regardless of any sign-object relation of referentiality. Otherness included in the metaphorical process, in other words, self-produces its own pertinent Otherness. As for the role of metaphor, however, I will stop here. I prefer to tentatively put aside the analysis of its implications to focus on it again at a later stage, and here return to the main topic of this essay.

In order to address ‘the limits of law’ issue, at least at this point, what basically matters is the trans-categoriality of the elements constitutive of the categorical checklist as a factor triggering the creation of different, but not necessarily or exclusively—I underscore this again—categories, teleological frames and embodied (even if only by imagination) experiential spaces. As noted above, Greimas’ semio-structuralist approach to legal language (and experience) finds it endowed with an absolute performativity. According to this view law would self-produce its referential field by semantically deforming the elements of the natural universe of discourse included in its enunciations so as to engender a complete *closeness* to that universe.

²⁰ See, for example, [57, 59, 60].

²¹ On the meaning of the term ‘rapprochement’ in the metaphorical dynamics see Ricoeur [89, 90].

²² A huge debt, even if often disregarded, as concerns the role of metaphor in the development of language and thought is due to Giambattista Vico and its *Scienza Nuova*. For an insightful analysis of metaphor in legal language in the light of Vico’s thought, see [19], but also [18].

In short, according to his view, law self-construes its own reality (or discursive referential universe) and makes itself blind and deaf to the natural one (universe of discourse). Law, therefore, would immunize itself from other circuits of experience and knowledge. In all likelihood, not even Kelsen or Austin would have expressed their imperativistic and formalistic approach to law in such sharp terms.

Actually, Greimas' main focus in the essay here analyzed is on corporations, which as *legal persons* (entities endowed with legal personality) are considered 'persons' by virtue of a fictitious analogy with 'physical persons.' This 'invention' dates back to Middle Ages through Canon Law,²³ even if it can somehow be traced back to Ancient Roman Law.²⁴ In any case, the natural language does not know legal persons/corporations if not by means of the legal language, even if the consequences of their actions heavily impinge on the common social life. Nevertheless, something similar could be said with regard to 'contracts,' 'legal obligations,' 'state,' 'ownership,' and even 'legal subjects,' which not by chance includes human individuals, communities and legal persons, as well. All these legal entities, even if paralleled by analogous behaviors taking place in the natural world, assume inside the legal universe of discourse specific meanings that cast their shadow across the social (natural) discursive dimension by virtue of the law's prescriptive efficacy. On the other hand, it is to be recognized that entities originally pertaining to the natural discursive universe, as for example the 'body,' when entering the legal dimension wind up assuming different significations.

Despite its semantic influence, however, law proves to be unable to impose its 'autocrat' pertinence constraints on the terms involved in the social (natural) discursive universe.²⁵ This finding, furthermore, applies not only to the natural terms

²³ A very insightful analysis of the conceptual history of 'corporations' is proffered, from a semio-pragmatist point of view, by [23]. Regarding the juridical/moral persons in Canon law see [62, 63]. A semiotic treatment of the corporation can be found in [9: 166 ff.; 32: 70 f.].

²⁴ See, in a vast literature, at least two classical works: [29, 73].

²⁵ In this regard see the very insightful essay by [32] where the normativity of legal language is compared with a Tarski-inspired analytical logic [97, 98], according to which the semantic truth of propositions is a function of the language in which it is conceived and is verifiable through truth-value tables implying a meta-language to avoid self-referential paradoxes. In the same essay the author proposes a different interpretation of legal semantics on the grounds of Peirce's triadic logic (*firstness, secondness and thirdness*) including the infinite signification, and thereby the potential semantic status of the unknown, namely the sign embodying *firstness*. I deeply respect the analysis developed by the author, though I find the pessimism of his conclusions regarding the dynamics of law disappointing.

Analogous observations could be raised as regards the autopoietic/functionalist approach to law, society and biological environments: [64–66, 69, 99]. The binary code legal/illegal that the legal system applies to determine what is inside and what is outside itself is the dynamic function that fuels the self-referentiality of the legal system and its autopoiesis, which the same Luhmann labels as a 'discursive enclosure.' Nonetheless, he has to recognize that the legal system is to be considered as normatively self-referential but cognitively open to the environment, and then to other social and living systems. The problem is to determine up to what extent this openness, and then the access to heteropoietic/heteroclit elements, just penetrates inside the circularity of a legal system that somehow compromises the alleged 'closeness' of its autopoietic dynamics. As I will show below, the inclusion of Otherness and its semantic relevance concerning the axiologic (in functionalist terms: omeostatic values) kernel of the legal system can induce it to collapse in on itself. This collapse does not leave any space for individual entities, since in Luhmann's functionalist approach there is no space for individuals outside their inclusion within a system; in the same vein no individual system, as a self-differentiating phenomenon, can exist outside an environ-

explicitly included in legal propositions, but also to strictly legal terminology. Actually, words such as contract, obligation, corporation, ownership, theft, and so on, if dis-composed in their semantic constituents (properties and connotations), include elements belonging to the social (natural) universe of discourse. In this respect, one has only to consider the terms ‘contract’ or ‘theft’, and their normative definitions, to ascertain that they include, respectively, the notion of ‘agreement,’ ‘conclusion,’ ‘bargaining,’ ‘signature,’ ‘will,’ ‘average knowledge,’ ‘mental competence,’ and, on the other side, ‘material possession of, or control over, objects liable to be taken and moved from one place to another,’ ‘subtraction,’ ‘advantage,’ etc. All the constitutive components of the categorical checklist of ‘contract’ encapsulate axiological and teleological connotations. These, in turn, reverberate onto the axiological and teleological prerequisite of legitimation overarching the law’s legitimacy in establishing pertinence constraints to the terms involved in legal statements.

The function of legal language is not ‘figuration’ (to be intended in semio-structural terms) but rather the production of social effects in the discursive and experiential domain of the ‘social world.’ But, precisely to accomplish this task, law has to take in account the semantic dynamics of the natural social universe of discourse. Such dynamics are a cultural phenomenon the result of which law cannot ignore, insofar as it must avert collapsing in on itself. From this point of view, the *closeness* of the legal universe of discourse is therefore to be deemed ‘constitutively relative.’ The changes in the social (natural) universe of discourse and experience cannot—simply and prejudicially—be judged as semantic/praxeological non-pertinences or ‘impertinences.’ This is because the categories of social (natural) language comprise constitutive elements liable to engage in trans-categorical projections and therefore capable of widening or narrowing the boundaries of each category. In many cases, such kinds of transpositions can coincide with a metaphorical process or even produce different categorizations immediately implicated in metaphorical processes so as to engender third categories or a readjustment between the reciprocal boundaries of the categories at the source of the metaphorical relationship.

The regime of correlation between the legal universe of discourse and the social (natural) one—the elements of which the first cannot avoid including in itself—is not a static semantic equation and cannot be presupposed as such. This is due to the incomplete normativity of the natural universe of discourse because of the inherent openness of its categories to Otherness and thereby, to the generation of differences. Legal linguistic constraints can do nothing against this phenomenon. In this regard, moreover, it is important to bear in mind that trans-categoriality opens not only toward different semantic frames but simultaneously also new *situations* and experiential spaces. This threefold transposition comes to the fore in all its

Footnote 25 (continued)

ment populated by other systems, which in turn presupposes an all encompassing system of systems. The epistemological pre-assumption of the systemic approach reveals itself as implicitly grounded in a sort of cosmological faith in a meta-system that inevitably engulfs also its own environment: which is nothing but the fall in an all-saturating and self-immunizing tautology. But this means anything and everything, namely nothing, or in daoistic terms, the absolute void (of meaning). For further observations see below in nt. 66.

potential extension and relevance as soon as the judiciary syllogism is considered. The gateway through which the changes in social (natural) discourse enter the semi-otic 'enclosure' of legal discourse is the syllogistic second premise. The simplest example is:

All the behaviors A (in all the situations *s*) are to be carried out according to the legal statement *x*.

The behavior to be considered (or judged) belongs to the category A

The behavior to be considered (or judged) is to be ruled according to *x*

For all citizens, legal practitioners, and judges the most problematic passage is to assess whether the behavior to be legally qualified can be included in the category A so as to construe the second syllogistic premise, or not. Actually, the implicit self-evidence concerning the categorical ascription of behaviors, subjects, things, etc. is only an artificial assumption that legal logic, and indeed any analytical logic, *dumps* on culture. In practice, instead, the legal interpreter must always face phenomenal items that are to be recognized, at least potentially, as 'unknown'²⁶ and the categorization of which, consequentially, cannot avert some degree of creativity. This is because the natural universe of discourse and, even before, the perceptual one, do not carry labels that are recognizable from the perspective of the other semiotic universes.²⁷ The world is not self-organized according to a categorical repertoire already definitively filed or indexed. Semantic absoluteness, hence, is out of reach for any cultural attempt (let alone biogenetic dispositions and the related cognitive values) to strictly define semantic pertinence constraints.

Moreover, all categories hold some degree of exceedance and randomness even because the definition of their checklist (that is, what is inside or outside each category) ultimately relies upon axiological and teleological judgments. Configuring the second premise of the above syllogism is neither an instantaneous nor a mechanical operation. As pointed out above, the universe of experience has no labels. However much language—echoing Roland Barthes—can be fascist, it is unable to cage and compartmentalize once and for all the flux of experience.²⁸ In the guise of trans-categoriality, this deficiency inhabits the same schemes that language adopts to discern phenomena and make distinctions in the ongoing experiential and perceptual stream. Saying that a particular behavior, which takes shape and place in the social (natural) universe of discourse, is to be categorized as a token of the categorical type included in the legal statement *x* is an act of translation. In other words, it is impossible to avoid including some degree of translational activity in the ascertainment that an individual behavior (or whatever phenomenal item it might be) is *in tune with* the

²⁶ See [32: 67 ff.].

²⁷ On the other hand, the problem with the signification, and therefore the same construction, of the syllogism's second premise has to do with Kripke's [55: 11ff.; 22 ff.] skepticism about the existence of facts that as such are able to determine meaning, or that the relationship between meaning and intentions cannot be an *internal one* [55: 37]; and this insofar as any normativist approach to meaning implies, to be self-consistent, at least the possibility that the semantic rule can be infringed.

²⁸ See [3: 59]. Barthes' formulation was: 'But language—the performance of a language system—is neither reactionary nor progressive; it is quite simply fascist; for fascism does not prevent speech, it compels speech.'

same act belonging to the social (natural) universe of discourse presupposed by the legal statement. On the other hand, it is precisely this kind of presupposition and the related semantic *attunement*²⁹ that cannot be taken for granted, nor assumed as immunized to the variety and the changes occurring in social experience and conduct. The lack of *attunement* cannot be imperiously resolved with an assessment of legal irrelevance, nor sanctioned as void or illicit.

When the legal interpreter is to qualify a case and its empirical elements, the assumptions made from the beginning of the hermeneutic activity regarding the statements to be applied and, more specifically, their phrastic³⁰ parts, are the product of an activity carried out abductively; or more precisely, those assumptions are to be considered as components of an abductive inference.³¹ The need to recognize the abductive construction of the second premise included in the legal syllogism is a consequence of the impossibility of overlooking the interests and the teleo-axiological relevance attached, case by case, to the behavior under scrutiny, in view of its legal qualification. This is an impossibility that is to be taken in account even if the categorizations arising from the involvement of those interests and values/ends do not fit the previous interpretations of the phrastic part of the legal statement to be applied.

The abductive process, however, can also culminate in the choice of another legal rule. This may occur because in the construction of the second premise, the first syllogistic one is, at least potentially, coincident with the entire legal system and its semantic resources. Despite the paradoxical appearance of the last assertion, it is nevertheless only an implication of the dynamic unfolding of syllogistic reasoning. When people (citizens, lawyers, judges, etc.) address the issues of the legal signification and/or relevance of a specific conduct, they have to previously ascertain what a specific conduct is or means. But this task cannot be accomplished without taking in account its material and psychological components (means). Of course, the subject engaged in such an investigation is already carrying on their mental activity within the legal universe of discourse or, to some degree, by referring to it. Nonetheless the configuration of the second premise of the final legal syllogism necessarily constitutes the first step of their action. During this step they have to translate and cannot allow themselves to ignore what is new, unprecedented, transforming, or even conflicting in the discursive universe of social life.

Subsequently I will show the specific reasons for which the legal system (through its interpreters) is urged by its inherent axiological and teleological fabric to continually remold the categories included in the phrastic parts of its statements according to the changes occurring in the social (natural) universe of discourse and the related

²⁹ I am using here the terms 'attunement' and 'to be in tune with' to point out the relationship between different semiotic universes. I intentionally prefer to use these terms so as to avoid the terms 'relate' and 'refer', including all their semantic declinations, which could evoke a word/object theory of referentiality.

³⁰ As for the terms 'phrastic' and 'neustic', somewhat equivalent to the distinction between the 'descriptive' and the 'prescriptive' components of legal propositions, I obviously refer to Hare [42].

³¹ Though needless to say, 'abduction' is to be intended as an inferential hypothetical reasoning in the sense proposed by Peirce.

claims for signification and protection. However, I prefer to reach this stage following a step-by-step path.

At this point, I would emphasize that the limits of legal language, that is to say the pertinence constraints that it sets for itself, are limited by the transformative attitude of the categories inside the social (natural) universe of discourse and included, as such, in the phrastic part of legal statements. This means that legal language should remain in a 'listening/learning mode' towards the extra-legal languages, insofar as they concur to determine the meaning of the common social discursive and experiential universe(s). Often—perhaps, too often—the sovereignty of law and its language gives course to an unfolding of its own power by prescribing not only what it is to do, but even determining what 'is' and what 'is not.' Actually, when lawmakers and lawyers try to use the phrastic part of legal enunciations in such a cognitive-autocratic way, they are *simply* trying to immunize legal language from the limits of the 'limits' of the (natural) social language, namely its inherent self-transformativity.³²

Despite the pretentious efforts of many of its interpreters, however, legal language cannot erase its debt to the social (natural) language. This is true not only for the modern secularized law by virtue of its 'exteriority',³³ that is to say its lack of legitimacy to control the 'internal forum,' but also for the religious laws and their divinely grounded wholeness and all-inclusiveness—the Ptolemaic/Copernican dispute *docet*. On the other hand, from a sociological point of view, it cannot be ignored that when the plan to 'forge' the existential language has been authoritatively pursued, eventually the institutional systems have collapsed in on themselves. As I will try to underline below, this depends also on the impossibility to coherently naturalize and crystallize once and for all the values that underpin and justify the universe of 'ought', or more explicitly, the same sense and plausibility of imperative discourse. Once this freezing naturalization has taken place, the function of imperative languages is already exhausted.

From another angle, it is to be considered that the self-transformativity of social (natural) languages is triggered by trans-categoriality and its axiological-teleological determinants. Consequentially, when legal language is used to control the transformation of social (natural) language, it simultaneously enters the protean realm of axiological judgments which, in turn, hosts the pre-requisites of legitimacy concerning law's authority and function: therefore, something extant even (and however originally) beyond and outside the boundaries and the scope of legal language. If and when they reach that point, law and its language will have to face the effect of a circularity among them and the social (natural) language. But this will open the way to inevitable semantic and political turmoil and transformation—here, maybe, we

³² By and large, this is the nub of Foucault's criticism of linguistic uses and, more specifically, legal ones. See [33, 34].

³³ I think that the hermeneutic history of the relationships between the modern secular ban against public agencies' access to the (so called) *internal forum* and the semantics of freedom and subjectivity in any legal experience is yet to be written. This topic has an extraordinary relevance as regards intercultural coexistence and its assessment under the lens of legal qualifications of the meaning of what is made by people from different cultures.

could recognize the key lesson that the myth of Babel bears within it.³⁴ The basic source of the above observations is however the ‘simple’ occurrence that any decision about the content of the categorical checklists and their semantic-pragmatic space inherent in the so-called *natural language* includes *axio-telic* judgments.

From the perspective just outlined, the limits of legal languages coincide with the limit of the *limit* of social (natural) language. The warning that no language can constitutively limit, and thereby define, itself can be traced back at least to Epimenide’s paradox, the influence of which extends to contemporary logic and its self-referentiality problems/paradoxes (Russel, Gödel, etc.). Nonetheless the inanity of any attempt or pretension to enclose language and ossify its categorical borders relies not only on logical arguments but also on psychosocial factors which I have found to be thoughtfully enshrined in literary loci and ancient mythological tales concerning the figure of the ‘garden’, namely an enclosed space *ordered* to contain both life and signification. Precisely the consideration of such psychosocial determinants comprises the second focus of my investigation.

³⁴ Kelsen was absolutely aware of this path toward circularity also, *inter alia*, through the analysis and criticism of the *stufenbau* carried out by Alf Ross [91]. During the preliminary discussion to draft the Weimar’s Constitution, actually, he tried in every possible way to oppose the insertion in the text of value-laden expressions or words. On the other hand, the exigency to presuppose the inner coherence of the legal system as a pre-condition for its scientific treatment spurs him to eject any semantic or truth-value logic from his legal theory of norms. This attitude ultimately leads Kelsen to recognize as valid even two rules that state opposite behaviors, provided that both of them were produced according to valid procedures. Such an artificial device is completely irrational, insofar as it leaves the problem of meaning outside the formal legal analysis by presumptively displacing and caging it in the ‘receptacle’ of the so called *Grundnorm* ... and beyond. From another perspective, the problem of applying a propositional truth-functional logic within the province of deontic logic by means of the ‘descriptive propositions about norms’ bumps against the ineludible circularity between the logic truthfulness of norms and their validity (or procedural correctness). However, both normative logical truthfulness and normative validity presuppose a semantic order given as a precondition. In other words, none of them can elude, if not through an axiomatic fiction, the issue of meaning and—crucially—its axiological components. But this conclusion also makes the cornerstone of deontic logic collapse: that is, the is/ought distinction and reciprocal non-inferability. If values also concur in processing fact evaluations and thereby empirical categories, consequentially unveiling and debating these axiological determinants of factual judgments will produce an explicit, or even implicit, remolding of the axiological discourse and its elements. The condition of cultural turmoil—to put it differently—results in a conflation of values and facts and, then, a *continuum* between their respective domains. This does not at all mean that the distinction between facts and values or the non-inferability from one to another is to be disregarded. To a more limited extent, it leads to the recognition of its heuristic/operational significance (although it is of the utmost importance) rather than to an ontological one. I think that one needs to keep oneself from deducing a given ‘ought’ from an ‘is’. Nevertheless, this ‘standard of wisdom’—at least, in my view—has to be complied with only until the cultural conditions allowing the assumption of the divide between the two domains need not be recognized as changing (or to be changed); and, in any case, a constant focus on critically assessing the opportunity to maintain the previously established categorization is equally wise and strongly advisable. Needless to say, there is neither a clear nor definitive answer that determines when a categorical renewal is required, except that a holistic understanding of the ‘situation’ is a prerequisite to avert tragic as well as ridiculous positions—which does not alter at all the worthiness of solipsistic acts of dissidence, however conservative or progressive they may appear, as long as they stem from an aware assessment.

2 Myths of the 'Garden' as Cognitive Metaphors on the Limits to 'the Limits' of Linguistic and Experiential Enclosures

2.1 Some Etymological Clues

Before introducing my analysis of the 'garden,' as an enclosed micro-universe as such (allegedly) isomorphic to the cosmos, it could be useful to cast an etymological gaze on the origin of the word.

The Hebrew term for Garden is Gan, Gannah, which means 'fenced area.' In Greek, 'garden' is expressed with both 'chórtos' (from which 'hortus', in *Latin*) and 'kêpos' (cultivated closed space). As such, it is intended to mean an 'enclosure', namely a 'closed place.'³⁵ What is relevant as regards 'the limits to the limits of law,' is that etymologically the 'enclosure', by virtue of and, at the same time, despite its closeness, is the place inside which is enshrined the (Divine) *Logos*. More explicitly, the closed (fenced circular) garden is a metaphor, and simultaneously a map of the Universe, a sort of cosmogram of its creative source and structural key.³⁶ Analogically, the idea of a sacred closeness is shifted also onto the temple (*templum*, in *Latin*, which comes from the Greek root *temno*, which means 'to cut, to divide, to separate, to slice'). The inner order of the garden is assumed (and thought of) as a scheme mirroring the harmonic order of the universe. In this sense, it simultaneously encapsulates (or is encapsulated by) an ontological and a normative significance. It presents itself as an image of the whole, and for this reason it promises to be complete, all-encompassing, self-bounded even if separated from the outside, which is implicitly depicted as evil, as noise, as undetermined and, ultimately, the 'apeiron.'

Something similar can be found in the Greek translation of Genesis, where the term 'Gannah' is rendered through the word 'parádeisos', which in turn derives from the Persian 'pairideiza,' namely 'fenced place.' Beauty, happiness, harmony and order dwell, therefore, in a closed space, which physically and conceptually delimits the borders of the right/fair significance of the universe. That space means the sacred. But precisely because of this delimitation it presupposes, co-defines and floats on an undetermined Otherness from which it cannot be, at least genetically, divorced. This bridge with the undetermined, the obscure, the unknown origins of (its) signification, permeates the other side of sacredness with dread. Crossing the boundaries of the garden means going over to the domain of darkness and falling into an abyss of non-sense, which paradoxically is coextensive with a dimension of binding/blinding absoluteness, a morass made of the lost ontic correspondence between names and the entities of the world.³⁷

³⁵ See [13]. For a literary journey through the symbolism of the 'garden' see [67, 68] and, with specific regard to Paradise, the wonderful book by [94].

³⁶ See, for some examples of the cosmological use of maps, gardens, and cloisters in ancient world, [21: 93 ff.]

³⁷ From a comparative point of view, consider the oppositional relationship between *jinna* (Garden of Delights or Oasis) and *al-sahra* (the desert, the place of darkness, blindness, lack/void and deficiency/silence of sensory coordinates).

In the same vein, ‘Garden’ (English), Garten (German), Jardín (Spanish), Jardim (Portuguese), Jardin (French), Giardino (Italian), etc., derive from the Indo-European root *gher* (echoed by the English ‘*gird*’ and ‘*yard*’), which means ‘to encircle, to close, to border.’ From another perspective, and if only because of the phonetic assonance, even the Greek ‘*orthós*,’ is germane, meaning as it does, that which is ‘right, correct, straight, correct, complying with rules or norms.’

2.2 A Contemporary Tale: Buzzati’s Anecdotes on the Great Wall

I would like to begin my excursion through the ancient literary loci on the ‘garden’ by using as an ‘usher’ a contemporary short tale. It is entitled, ‘*Anecdotes on the Great Wall*’ and begins with the recounting of an Oriental Legend. The author, however, is a Western writer, more precisely the Italian Dino Buzzati. I will reproduce here only the first of the tales, which are presented as a sort of chronicle of bizarre events involving people on the verge of death. The plot reveals that seeing a mysterious long wall, at a distance, is the symbolic announcement of imminent death, and this is the interpretation that the same writer gives to the Oriental legend and others tales that precede it.

Dino Buzzati

Anecdotes on the Great Wall

An Oriental Legend says:

The tired wayfarer arrived before the gates of a castle. He knocked, and an old man opened the doors and brought him to a beautiful garden intersected by many brooks and filled with fruit-bearing trees. The wayfarer ate and drank. Later, he was walking around the garden when he realized that, at a certain point, the entrances and exits to the garden were blocked by a wall. So, he asked the old man: ‘My Lord, what is to be found on the other side of this wall? Another garden?’ The old man answered: ‘Behind the wall there is another estate even greater than that where we now dwell. I welcomed you into my estate with the intention of letting you go there. But not today. I will tell you when the time is right. Be thankful for all that surrounds you here, and beware of crossing that limit, even if a passage were unexpectedly open to you. In the wall there are, here and there, some doors. I offer you the keys. Take this for what it is: a sign of my trust in you.’ The wayfarer gave the old man his word. By and by, however, he became *obsessed* with the delights that must surely be found on the other side, and asked himself with evermore frequency, what might be beyond the wall. He dreamed of meadows and flowers even more breathtaking than those of the garden where he dwelled. One day, his curiosity became so compelling that he was no longer able to resist the urge; he used his key and opened one of the doors. As he stepped over into the new land, he found, as far as the eye could see, that there was nothing but an arid

plain of stones. As he surveyed the landscape with dismay, suddenly, the door shut again behind his back.³⁸

Buzzati interprets the legend as if it placed a wall before the last frontier of life. But I suppose that this short tale has much to do with Biblical Eden (actually, I do not know if it is originally Eastern, since Buzzati wrote it in Italian; may have invented the whole thing). I would like to use this story as a sort of viaticum to accompany a journey through ancient myths about 'gardens.'

A garden, in any case, is the real protagonist of the legend. It is enclosed by a boundary wall, which is punctuated by some doors. It is a place of delights. Nonetheless the wayfarer makes up his mind to open one of its doors and go outside before the master has announced that the time has come for him to use the keys. The wayfarer is unable to resist the temptation to see beyond the wall, as soon as possible, the other greater estate that looms in his mind, thanks to the words of the master. What impels the wayfarer to violate the master's warning—the legend tells us—is a compelling curiosity: more specifically the curiosity of Otherness, of other possible, different worlds. The wayfarer betrays the old master's trust because he refuses to wait for the right time to ripen. He is fascinated by an abstract idea of Otherness. The betrayal consists in more than merely seeking an improvement in the offerings (flowers and meadows) of the present garden inside the perimeter of the wall. The guest seems to use the trans-categoriality of the properties embodied in those entities (flowers and meadows) to imagine an indeterminate difference, a kind of abstract 'more.' This mental action, alongside a symmetric pragmatic movement (turning the key to open the door in the wall), exert a complete betrayal because they destroy the garden's internal order, disregarding the meaning and value of the 'inside entities'. In other words, the wayfarer's premature action does not allow for the necessary time for specific differences take shape, as such significantly linking the *differentiated* and its counterparts. These links would maintain the door open towards the outside, namely the Otherness, so as to convey a possible reconciliation. The possibility to give space for these links to manifest is instead abruptly and roughly cut away by the wayfarer's *aprioristic* and *untimely* decision to place himself outside the garden. But the breaking of the old man's trust entails the bankruptcy of sense, a sort of semiotic breaking of the *contrat de véridition*, namely the semantic social contract that proffers a shared sense, and thereby (the illusion of) objectivity, to both words and the entities in the world—inside and outside the garden.

What opens the door in the wall is thus a key driven by pure will rather than knowledge, or intelligence. His going out equals a refusal of the present and its significance. The outside, in this way, cannot be other than the opposite (an absolute Otherness) of what is inside the garden rather than one of its possible projections, consequences and metaphorical transpositions, able to maintain meaningful ties with what is inside the wall. The outside engendered by the premature passing through the wall is divorced from the world of delights, and as such can only be a desert, a desert of meaning. The door suddenly closing behind the wayfarer

³⁸ My translation. The original Italian version is titled: *Aneddoti sul grande muro*, in [12].

reverberates as a shutting out, a loss, a definitive unmooring from the roots of Being: the knowledge of which is to be regained, perhaps, through immense efforts and a genuine spirit of reconciliation with the content of the garden and its master. Nonetheless the legend does not tell us if this path back will ever be possible. The plot ends with an existential and cognitive tragedy, leaving the reader with an abyssal question about the meaning of that loss that comes close to a psychological death. But another cluster of questions, maybe even more crucial, arises from this gloomy conclusion: Why was the wayfarer not satisfied with the delights of the garden? Why did they start to bore him? Why did their sensory sensibility and satisfaction begin to fade and etiolate? And if they were already losing their signification, what did the wayfarer actually lose when the door closed behind him? And what, instead, was he searching for by opening and going through the door in the wall?

2.3 The Edenic Garden

In the wake of the above questions, I would move on to analyze the renowned Biblical passage on Eden's creation and, more specifically, the power Adam was given by God to name all living beings and eat from all the trees in the Garden, with the infamous exception of the Tree of Knowledge, at least—according to the divine warning—if he wanted to avert a certain death.

Genesis 2:7.9; 2:15-19³⁹

“7 Then the Lord God formed a man from the dust of the ground and breathed into his nostrils the breath of life, and the man became a living being.

8 Now the Lord God had planted a garden in the east, in Eden; and there he put the man he had formed. 9 The Lord God made all kinds of trees grow out of the ground—trees that were pleasing to the eye and good for food. In the middle of the garden were the tree of life and the tree of the knowledge of good and evil.

[...]

15 The Lord God took the man and put him in the Garden of Eden to work it and take care of it. 16 And the Lord God commanded the man, “You are free to eat from any tree in the garden; 17 but you must not eat from the tree of the knowledge of good and evil, for when you eat from it you will certainly die.”

18 The Lord God said, “It is not good for the man to be alone. I will make a helper suitable for him.”

19 Now the Lord God had formed out of the ground all the wild animals and all the birds in the sky. He brought them to the man to see what he would name them; and whatever the man called each living creature, that was its name. 20 So the man gave names to all the livestock, the birds in the sky and all the wild animals.”

Everyone knows the end of this story. Adam and Eve fall prey to the Devil's inducement to eat from the tree of the knowledge of good and evil, and God banishes them from Eden, condemning all human beings to struggle all their lives, procreate and die. One difference between Buzzati's Oriental legend and the Biblical story is

³⁹ Holy Bible, New International Version (Biblica 2011).

the latter's inclusion of an explicit referral to the human attitude to name the entities of the world. Adam is given the power name all things (including animals and other phenomena) and therefore to elaborate categories. According to the biblical account, he named all the wild animals and the birds in the sky. The story seems to tell us that God brought to Adam individual specimens so that the name he gave to each would be that of all the individuals belonging to the species. Adam was really the gardener of Eden, that is, the person in charge of giving order to it. Nonetheless, Adam and Eve decide to follow the Serpent's suggestion to access the knowledge of good and evil, the difference between what 'is' and what 'is not.'

Adam was cognizant of general names. He thus made use of categories and, in doing so, should have become aware of differences. Nonetheless, in the Edenic garden, Adam's naming functions like God's Word (*Logos*): it is immediately constitutive of reality; it forges its object. This linguistic activity is endowed, in other words, with an inner ontic referentiality. It closely resembles Greimas' description of legal language. Adam's linguistic action is simultaneously 'onomo-thetic' (from the ancient Greek *onoma*, *onomatos*: name) and 'nomothetic' (from the ancient Greek *nomos*: law). However, it is precisely this coincidence that makes the differences among names and the related categories created by Adam devoid of sense, as if they were dead. In Eden there is no possibility of transformation. Eternity is the other side of the order Adam is charged to ensure. There is no tension among categories, trans-categoriality is neutralized, forever frozen. There is no possibility of mistake or transgression: entities and names enjoy an absolute correspondence, and each is in its own place. But without semantic tension, differences lose all their significance. They are irrelevant, silenced. Language is automatically made reality: the work of creation, namely of differentiation, is completed as it begins. Everything holds; each name simultaneously and exactly signifies all the others. There is no time; no history. Names and objects are the same. In this condition of solipsistic absoluteness, it is impossible to perceive differences, if only because if they are to be observed and measured, they need a potential for sameness among multiple othernesses, to begin. But in the Edenic universe of discourse, generality and individuality seem to coincide. When Adam names an individual specimen, this name immediately defines and shape all the entities belonging to the corresponding species. This kind of ubiquitous coincidence is ineluctably narcotic and mortally boring.⁴⁰

If it is correct to assert that meaning blossoms among differences and their endless recombination, then it was absent from Eden. There, it was impossible to give rise *and room* to metaphors: that is, inventing new categories from those already extant by means of their merging. There is no semantic space that serves as an alternative to the Garden. Adam and Eve have to break the pervasive order that *afflicts* Eden for their enclosed world to have significance and meaning. They have to make

⁴⁰ From this perspective Eden seems to mimic almost a radical reification of Kripke's causal theory of reference, or Putnam's semantic externalism [78]. Actually, it appears to be closer to a *Kripkean* nightmare, which embodies the 'semantic necessity of names' to such an extent that the casual theory of reference ends up collapsing in on itself. For my part regarding such approaches, I would propose an analysis of the following proposition—and the ambiguities haunting it—if pronounced today: 'Je ne suis pas Charlie Hebdo.'

its self-bounded closeness crack and wriggle free from its own endemic eternity. The tree of the knowledge of good and evil is the way out. Nonetheless, it embodies an either/or solution. It allows the knowledge of difference, but only the absolute one. By virtue of its fruits, Adam and Eve get access to the opposite of good, the negation of Being. A space of differentiation from which it is impossible to start any metaphorical process with that which is inside the Garden. It is—like for the wayfarer of the Oriental legend—the betrayal of the trust God placed in Adam by showing him the ‘good/evil knowledge tree,’ naming it and verbally inhibiting the human being from eating its fruit.

The transgression against God’s edict opens human beings to the counter-universe of absence; it literally deploys before their eyes, and drags them into, the mortal dialectics of absence. But this same tragic path is also the source of *the search for* meaning, the starting point for *foreseeing* its possibility. As soon as Adam and Eve eat from that fatal tree, they suddenly discover what is lacking, nudity, what it means to feel ‘without-ness’, and thereby what ‘change’ is, and the potential trans-categoriality of the semantic components included in each name, word and the underlying category. For example, only by virtue of trans-categoriality, after the fall, will they recombine differences to conceive of clothes, metaphorically creating the dressed human being by the mutual adaptation of her/his body and other entities present in the world. They discover habits, which indicate more than the final material result; not only the thing-dress, but also the process of adaptation between the human being and the world, carried out through an activity of mind. Adam and Eve, once banned from Eden, become able, but are also compelled by necessity, to draw differences and then reconcile them by their relativization. This is the only way to find the long (perhaps, endless) path of reconciliation with the root of Being left in the Garden.

That said, and before going any further in the exploration of literary ‘garden’ loci, it could be useful to briefly dwell once again on metaphorical process.

The above analysis of Biblical passages touches on the cognitive role of metaphor and its spatial projections signified by the ‘inside/outside’ relations of Eden. When Aristotle, in his pioneering theoretical approach to metaphor, says that metaphor brings something unknown ‘before the eyes’, he is primarily focusing on one sense: sight. However, visual perceptions never come alone. Despite the Western (and originally Greek) predilection for sight, viewed objects are always perceived by means of the cooperation (at least potential) of all the other senses and the semiotic pro-active combination of environmental stimuli. ‘Bringing before the eyes’ hints, even if metonymically, at the embodiment of meaning encapsulated in the metaphor and produced through the metaphorical process. But ‘embodiment,’ in turn, implicitly presupposes the inclusion of spatial experience and, as such, already pervades Aristotle’s phrase, or at least the contemporary reception of its referral to ‘sight.’ In this regard, the body should not to be conceived of (only) as a material entity but rather as a phenomenological frontier arising from the ongoing adjustment between the organism and the environment.⁴¹ Senses foster and dynamically constitute (but

⁴¹ I extensively addressed the role of metaphors in legal language and intercultural dialogue in [79, 81]. See there for further considerations about the theory of metaphor, the relationships between embodiment and meaning, and the related bibliographical references. As regards the connection between categorization, embodiment and territorialization of space see also [87].

are also retroactively constituted by) bodily functions, the task of which is the integration of the experiential space into the subject's pro-active patterns of behavior, or habits.⁴² From this point of view, the semantic or categorical shifting produced by the creative power of metaphor also involves experiential spaces, their overlapping and remolding. As both word and space constitute semiotic dimensions, they interact horizontally,⁴³ if only because the meaning of words includes space through its experiential embodiment and, in turn, the understanding of space is imbued with the cognitive and behavioral schemes encapsulated in words and their related categorical checklists. Any change in our symbolic universe implies thus a consequent and symmetrical modification of our understanding and the (prospective or actual) use of space, even if this parallelism is carried out unconsciously.⁴⁴

The garden or fenced space should be considered a topographical metaphor of the bounded semantic space of categories. Precisely for this reason any categorical change or shifting implies the breach of the garden's boundaries and is metaphorically signified by it. Conversely the garden imaginatively stands for the bounded normativity of categories that are signified through the individual entities and actions respectively extant and carried out inside it. Its fenced space, as well as the city and any kind of socio-ontological enclosure, is ultimately the domain (at least, allegedly) that is coextensive to any ontological and axiological order.

I think that it could be possible to lean on the semantic rhythm of metaphorical processes in order to understand the inner meaning of the 'Fall from Eden,' or the impossibility of returning to the Garden of Delights described in the Oriental legend. As many literary, semiotic, psycho-cognitivist and philosophical studies attest, metaphor functions provided that the semantic distance between the combined semantic domains remains present or perceivable. The metaphorical process has to yield new meaning and yet not completely overshadow the categories from which it began. If we accept the idea that the metaphorical process has much to do with the cognitive one (and the 'invention' of new ideas), we are somehow legitimized

⁴² For a recent assessment of the 'consequences' stemming from Peirce's concept of habit see [104]. On the historical development of the concept of habit, see [95].

⁴³ In my discourse, metonymy and metaphors conflate because trans-categoriality transmutes and opens up towards a categorical blending which redefines the indexical (and cultural) context supporting metonymy and even conflicting metonymies. It could very useful, from this point of view, to compare what [19: p. 101] and [43: 1220] observe about the verticality of metaphor and the horizontality of metonymy in legal experience, on one side, and Ricoeur's [89] approach to the metaphorical process and its attitude to re-shape its own referential backdrop, on the other. Very interesting, in this respect, is Ricoeur's long-distance dialogue with [49: 350 ff.) with specific regard to the 'dichotomy of signs and objects' [49: 357, 351], as such contested by Ricoeur himself precisely in connection with the cognitive/creative significance of metaphorical processes.

⁴⁴ In this sense, it is very interesting to recall what [90: 149] observes, following [2], about the spatial dimension of metaphorical processes: 'Such is the first function of imagination in the process of semantic innovation. Imagination has not yet been considered under its sensible, quasi-optic aspect but under its quasi-verbal aspect. However, the latter is the condition of the former. We first have to understand an image, according to Bachelard's remark in [2], as 'a being pertaining to language.' Before being a fading perception, the image is an emerging meaning. Such is, in fact, the tradition of Kant's productive imagination and schematism. What we have above described is nothing else than the schematism of metaphorical attribution.'

to think of the crossing of Edenic Borders as an act of negation and a refusal of the categories defining the Garden's inner space. Nevertheless, cutting ties with previous knowledge means petrifying the new alternative categorizations and thereby making impossible both their novelty and any lasting understanding. In other words, the interplay between proximity and distance (in any case present even within oppositional relationships), between the Self and the Other, the Edenic Being and the Unknown Otherness, must remain. If this is not the case, he/she who crosses the borders will be compelled to re-trace the origin of the opposition and, in this way, the same 'Self' co-constitutive of the present 'Otherness', namely the first 'Being' (or, paraphrasing Peirce's terminology, the Firstness). The human condition outside of Edenic Space could be equaled to an Otherness bereft of its Self, and 'Other than Being' as deprived of its relationship with 'Being'. It will in any case presuppose the Self and Being (or Self-as-Being), but human beings will be aware of neither this 'permanent relationship,' nor its semantic content.

The novelty of ideas stemming *in* and *through* metaphor is inextricably intermingled with new relations arising from the conflation between the radial webs of properties and connotations underlying the combined original categorical frames. Hence, insofar as the knowledge of the difference between Good and Evil proceeds and ends up as a negation of Being, it will be doomed to sterilize thought, giving birth only to the death of its previous instantiations. The only way to survive this mortal divorce is to use new categories, carrying on the categorization process with modesty and taking in account the relationality underlying trans-categoriality and the metaphorical merging of semantic domains: that is, by continually re-adjusting, or at least pursuing the 'rapprochement' between the Other and the Self, the outside and the inside, the present and the past, perception and memory, and so on.

On the other hand, remaining in Eden and keeping a respectful (if not even trembling) distance from the Garden's (categorical/spatial) boundaries would condemn the life inside it to a icy and unconscious felicity or, alternatively, to an everlasting and pervasive state of 'irreflexive boredom:' precisely the condition in which the activity of categorization is absent, or definitively exhausted. Doubtless, according to the Biblical account God initially entrusts Adam with the task of naming the entities of the world, involving him in the process of categorization of the Edenic reality. And perhaps it is not a coincidence that the fall into sin immediately follows—not without significance—the completion of the 'naming activity.' In the ancient oriental tale, the Edenic end of categorization is paralleled by the depletion of the initial surprise of the Garden's guest. The source of Adam's mortal sin coincides, somehow, with the gift of names by God. Those names will lose their initial harmlessness and innocence to become the semantic fuel triggering Adam's cognitive and existential leap over the boundaries of Eden astride the consumption of the prohibited fruit. In the Oriental legend, the same function seems to be fulfilled by the flowers within the garden and the key given by the old man to his guest.

The metaphorical equivalence between the boundaries of the Garden and the Limits of Law seems now to trigger a crucial inference. This is to say that the limits to 'the boundaries/limits' of the legal domain spill out from the inner exceedance of categories and their tendency to self-produce Otherness through the dynamics of dis-composition and re-composition of their properties and connotations. However

this uncontainable tendency toward extroversion could be compensated by a reverse metaphorical movement which prompts the rapprochement of Otherness with the Self, the Categorical Outside with the Categorical Inside, the (originally) Excluded with the Included.⁴⁵ This movement, which is the creative outcome of the metaphorical process, assures a continuous renewing of the 'semantic matter' from which boundaries/limits are made, as is the signification of legal thought and the legal experience as a whole. This means that the life of law entails an endless wobbling of semantic consistency, propelled by the innumerable and unrestrainable activities of signification perpetually weaving and unravelling the fabric of the semantic/connotative continuity between what is inside categorical boundaries and what is outside them.

2.4 The Phaeacian Garden

The next literary locus that engenders a reflection on the limits of general, as well as legal language, can be found in Homers' *Odyssey*, in the description of the court garden of the Phaeacian king Alcinoo.

Odyssey, Book VII,⁴⁶ vv. 103–132

"Bronze walls had been run this way and that... [...]"

As far superior as the Phaiacians are to all men in their knowledge of how to speed forward a fast ship at sea, just so are the women skilled at the loom; for to them especially has Athene given the knowledge of very fine things to do, and good sense.

Outside the courtyard, near the doors, is a big square garden covering acres, with a fence round it on both sides. There tall trees grow flourishing; pears, pomegranates, apple-trees, with glistening fruits, sweet figs and flourishing olives. The fruit of these trees never dies or fails, winter or summer, all the year round: the breath of the west wind all the time makes some grow, and ripens others. Pear after pear grows old, and apple after apple. Grape too upon grape, and fig on fig. There his fruitful orchard is rooted. On one part of it, in a smooth place, is a warm spot dried by the sun. Other grapes they gather, and other still they trample on. In front are sharp-tasting grape-clusters, shedding their flower; others are darkening. There are beds of flowers of all kinds growing along the furthest row in glorious abundance. There are two springs there: one is diffused over the whole garden, and another runs from a different spot, beneath the court-yard floor, to the high house; from this one the citizens drew their water. Such then were the gods' glorious gifts in Alcinoo's house."

Odyssey, Book VII, vv. 38–44

"They do not put up with strangers or give a friendly welcome to any one who comes from somewhere else. Confident in their fast rapid ships, they cross the great gulf, since the earth-shaker has given them <that power>. Their ships are fast like an arrow, or a thought."

⁴⁵ Ricoeur [89, 90]. When applied to law, the metaphorical dialectics of rapprochement approach Cover's conception of law's dynamics [15, 16].

⁴⁶ The passages in English from the *Odyssey* are taken from the translation by [20].

Odyssey, Book XIII vv. 168–201

“When Poseidon, the earth-shaker, heard this he proceeded to Scherie where the Phaiacians are. There he waited. The seagoing ship came very close, lightly pursuing its course. The earth-shaker came close to it, who made it a stone and rooted it below, driving it <down> with the flat of his hand; and he was gone, far away. But they spoke winged words to each other, the Phaiacians, famous for their long oars and for their ships, and this is the sort of thing that one of them would say as he looked at some one next to him: ‘Oh! Who has enchained the fast ship at sea as it sped homeward?—and all of it could be seen too!’”

To grasp the Homeric metaphor involving the Phaeacians’ garden, I think it would be useful to begin from the last excerpt, which describes the ship used by the Phaeacians to accompany Odysseus to Ithaca, and its transformation into stone by Poseidon and Zeus.

The fate of the Phaeacians’ ship symbolizes the petrification of the Word when it is assumed to be able to include in itself the object (internal referentiality), in this way denying any role to ongoing experience in the process of signification.⁴⁷ The word—as Homer seems to say—has instead to “row” (in Latin: *remigo*, *remus* and the Ancient Greek *réo*, *réma* or early, *reüma*: current, stream; in linguistics the ‘rhema’ is what adds something new to the discourse, the ‘thema’).⁴⁸ Furthermore, it has to do so in a dialectical fashion (from the Greek *diá-lego*), therefore speaking through, gathering (selecting, picking up) by means of language: that is, opening the sense connections dynamically, thereby continually reinventing and renewing the meaning of the object and the words related to it⁴⁹ (see the Platonic tale of Adonis’ Gardens in its criticism about the stiffness of writings if compared with the spoken words, dialogically interwoven: Phaedrus: 276a–277a).

When Odysseus comes back to Ithaca, conveyed by the Phaeacians’ ship, he does not recognize his homeland. But his inability is symmetrical, and to a certain extent also caused by, the vehicle of his travel. His homeland is reached unawares: during the journey Odysseus sleeps as a god—Homer tells us. Ithaca becomes, therefore, a kind of apodictically imagined object (a synthesis of imagination or *synthesis speciosa*, to use the Kantian terminology) by force of the mere, reiterated pronunciation of a word. In this case, if lacking direct experience, the mind reaches it without any *fully effective* knowledge. But if the word does not go through the language and stays alone in its solipsistic majestic ossification, it is doomed to die, to shrivel, even if its consequences, at first, seem to sprout profusely and rapidly, that is, to be connoted by dazzling evidence.

⁴⁷ An extraordinary, albeit indirect, theoretical clarification of why the Phaeacians were cognitively sinning by presumption can be found in [8]. This very insightful work is a phenomenological invitation to consider experience as being more than ‘anything’ exhaustively pre-encapsulated in words and pre-acquired concepts taken as ultimate and definitive metaphorical epitomes of all the possible (past as well as future) experiences.

⁴⁸ On the thema/rhema, or topic/focus, topic/comment relationship in linguistics, and particularly in the ‘Functional Sentence Perspective’, see [17], and also [28, 58].

⁴⁹ [77].

The Phaeacians' ships are winged and fast as thought—Homer tells us. They do not seem to need any canvas or oars, as if they already know the destination and the route by themselves: they are like words. Precisely such presuming-to-know-in-advance, at the same time, heralds their fate: to be turned into stone. The same destiny could befall Alcinoos' garden. It enshrines and embodies a deep knowledge of the world. It is imperishable, self-produces seasons, and is immune to death. Nonetheless, in the end, it will run the risk of being petrified, as if it was not really self-sufficient in the determination of its own *life*. All knowledge symbolized and mapped within the garden, despite appearances, will prove not to be a true knowledge, which can gush up only from the dynamic interpenetration between word and experience (that is, the related semiotic domains), the fenced space and its deep-rooted relationship with the universe, the uncultivated land, the desert. And yet, the desert will be, according to Tiresias' prophecy, Odysseus' ultimate travel destination.

Odyssey, Book XI, vv. 147-167

"But you will truly take your revenge on their violent acts when you come. When however you kill the suitors in your palace, whether by craft or openly with the sharp bronze, then you are to go, taking an oar that fits the hand, until you arrive at those who do not know the sea *men, and they do not eat food mixed with salts* nor do they know of ships with crimson cheeks, or oars that fit the hand, that are wings for ships. I shall tell you a very clear recognizable sign; it will not elude you: when some one else on the road meets you, and says you have a winnowing-fan over your bright shoulder, then sticking the oar that fits the hand into the ground, sacrificing fine victims to Lord Poseidon, a sheep and a bull and a boar that mates with pigs, go off home and make holy sacrifices to the immortal gods who hold the broad sky, to all of them in order. Death will come to you yourself from the sea quite gently, just like that, which will slay you when you are worn out by a rich old age; and your people round you will be prosperous. These things that I say to you are true."

Odysseus must reach the land of people who never see the sea, who do not add any salt to food (undetermined flux of event, ongoing reality) and do not know ships and oars. There, Odysseus will be told by someone else—another wayfarer?—that he is bringing a winnowing-fan on his shoulder. Actually, Homer explicitly implies that the pointed winnowing-fan is an oar. But I think that this is not a linguistic mistake or inadvertence. Metaphorically, the winnowing-fan is the instrument of judgment, discernment and selection. It serves to separate the wheat from the chaff, good from evil, order from chaos, meaning from the undetermined stream of events. But the winnowing-fan is nothing but the word, the oar in the ongoing renewing of language in its routes through the ocean of experience. Ulysses, master in lies and the fictitious use of words, has to accept to plant in the ground his most powerful weapon and come to terms with gods, namely experience, the 'beyond' ineluctably resilient in the universe of life and exceeding any human effort to construe a linguistic, self-bounded and isomorphic dimension of (self-)reference. Only by laying down the word/oar, can he reach a rapprochement with the cosmos and come back again to Ithaca, where he will be surrounded by pacified and blessing peoples until a gentle death will come to him from a sea (language, the ocean of all possible semiotic connections) finally in tune with all the divine and earthly universes (of discourse). The end of Tiresias' prophecy sounds, therefore, like a kind of viaticum for

eternity (an inherently dynamic, moving eternity), exactly like the everlasting message that Homer bequeathed to humanity with his cognitive encyclopedia of hospitality (to be intended as the *re-lation* with and the *trans-lation* of Otherness), which the Odyssey is.

Actually, Odysseus' arrival in Scherie, the Phaeacians' homeland, breaks the spatial and semantic closeness of Alcinoo's world, symbolized by his everlasting garden. Odysseus is a master of the use of language and yet he himself has had to discover, albeit still only partially, the deficient self-referentiality of words by means of a long and troubling personal transformation. After the blinding of Polyphemus, Odysseus raises his own name to the rank of absolute measure of the universe. He says that not even Poseidon the god, Polyphemus' father, can give sight back to the Cyclops as sure as 'I, a man named Odysseus, deprived you of it.' The name Odysseus is therefore transmuted into an all-encompassing synthesis of past and future events, and ultimately the human and divine world. The price that Odysseus will have to pay to reconcile with the gods will be a radical self-distancing: to the extent that, once returned home, he will have to become someone else, camouflaging his own identity under the guise of a beggar, to understand what is happening in his palace, his realm, in his own life. After having taken his revenge on the violent suitors surrounding his wife Penelope, Odysseus must regain the trust of the people of Ithaca, whose youths he has killed. At this point, Homer presents the first step of Odysseus' path towards reconciliation. Through a negotiation, he establishes a new social and semantic contract, inside which he accepts to redefine, after his long peregrination, his repositioning within an existential and political space of coexistence. But this repositioning is the same reconciliation encapsulated in the metaphorical trans-categorical 'to and fro.' Odysseus has traveled through difference, the Other-than-Self and the Other-of-Self, in order to find and grasp himself. This, however, is not enough. He must come to terms with the gods and reconcile with the universe; he must understand the mediating role of the word. He has to grasp the necessity to use categories with modesty, to dismiss any faith in their absolute inner self-referentiality, to leave open the way to a metaphorical movement from trans-position to reconciliation. All this because from the bosom of this mediating movement, the source of sense lights up, occasionally, in the guise of a thirdness, a novelty, which is revealed to be invisibly rooted in the folds and backdrops of all difference.

For the Phaeacians, Odysseus is, once again, the Otherness that abruptly breaks into their apparently self-sufficient world and, at same time, the trigger for its extroversion, namely a wise and modest use of their knowledge as well as their ships/words. In a sense, Odysseus embodies, at least with respect to the inhabitants of Scherie, the same role that the serpent-Satan plays in his dialogue of temptation with Eve. Both Odysseus and Satan are the semantic fissure toward the Elsewhere, the space of difference and Otherness, the *categorical outside*, the unenclosed, which, however, already inhabits all possible *gardens* by virtue of language and its idiomatic tension toward universalization in the creation of categories.

On the other hand, the vicissitudes that Odysseus experienced with Polyphemus also show the semiotic exceedance undermining any attempt to set or preserve linguistic/categorical and spatial enclosures. Actually, the Cyclops' monocular sight seems to embody his inability (refusal?) to envisage the

semiotic depth of phenomenal entities (including human beings) and their consequences. For Polyphemus, the world is as it appears to him. A little man, such as Odysseus, is only a little man, therefore a defenseless prey, which cannot modify itself, and must succumb to its situation, to its destiny. Words and things coincide up to the point that for the Cyclops the name of his victim is without any importance; it could even be 'no one.' But Odysseus knows techniques and the art of teleologically symbolizing the components of experience so as to remold their interaction and, simultaneously, his own life situation. Caged in the Cyclops' cave, a sort of infernal garden, Odysseus transforms an olive branch into a sharpened stake with which to blind his giant enemy. But to achieve this result, the king of Ithaca plans to get Polyphemus drunk, exploiting the beast's ignorance of fermented must, that is, of wine. Here, once again, Homer shows us the brute's woeful lack of technique, due to his solitude and inability to build ships that might sail the sea (language) the way the human beings do, seeking one another to communicate. Actually, Polyphemus, appreciating the wine, says that even they, the Cyclops, have vines producing huge and lush grapes, but do not know how to transform their juice into this delicious ambrosia. But technique is an offspring of language and communication, and symbolization allows for the combining of different material things so as to change their attitudes, functions and meaning. This work applied to things is, thus, a form of predicative action, which like a metaphorical process overlaps and adjusts different entities to engender something new, sprouting from the creative merging of their features. Because of his unfamiliarity with language and its transformative attitude, Polyphemus is completely defenseless against Odysseus' capacity to exploit trans-categoriality. He has left the Greeks secluded in a cave where there were no weapons to be used against him. At his return, instead, he will become the victim of a completely subverted situation, one which he was utterly unable to even conceive. In the new scene orchestrated by Odysseus, the metaphorical use of words and things (namely, the related semiotic spectrums) has thoroughly upset the Cyclops' world and the meanings that underpinned it. In the end, even his 'loyal' animals will be transmuted into escape vehicles: clinging to the bellies of the beasts, which symbolize the 'clear' appearance of things and animals in Polyphemus' cave, the Greeks will escape from their stone prison to the world and its open sea-language.

Homer's lesson, here, conjugates both of the sources of categorical self-transformation analyzed so far. The 'migration' towards Otherness and the overcoming of categorical boundaries take place in the cave as a result of both the Other's breaking into the Cyclops' enclosed world and the transmutation that occurs to the entities already inside it, a process which finally conveys the foreigners outside the cave, toward the 'outer space.'

Technique, metaphor, creative predicative activity and projection towards the outside will lead us directly to the final literary loci, both captured by the pen of Plato. I refer to *Republic* (II: 372A-374A) and *Timaeus* (23D-25d), where the 'mythical city' and the 'imaginary one,' respectively, take over from the metaphor of the 'garden.'

2.5 Platonic Athens

In his *Timaeus*, Plato tells two mythical tales about the ancient Athens and Atlantis. The theoretical hub of both these stories has to do with the conceptual structure of the cities, their civilizations and their institutions. What is very peculiar to these passages is the relationship that Plato recognizes (but actually creatively establishes) between the social roles of individuals and the conceptualization of a cognitive order. Political structures and cognitive *ideologies* are taken together as if they were two symmetric wings of the two cities and their social frameworks. The boundaries of these city-states are assumed, therefore, to be coextensive with those ‘enclosing’ the categorical schemes defining social roles and the cognitive apparatuses involved in their ‘conception.’⁵⁰ Respect for the good (and wise) laws of a city—in this case, Athens—is strictly correlated with the maintenance of its geographical borders: which implies both their defense against alien enemies and the self-limiting avoidance of any temptation to illegitimately or violently enlarge the urban perimeter to the detriment of other populations. Nonetheless, the description of these two mythical cities in *Timaeus* ends up showing them falling prey to an overall disruption. The inhabitants of Atlantis use their extraordinary technological knowledge to indulge their longing for conquest and to wage war against Athens, which in turn defeats the enemy but does not come to terms with it. There is no reconciliation or negotiation

⁵⁰ I use the term ‘conception’ in a Peircean fashion, therefore related to ‘all conceivable practical effects’ as such in contrast with the term ‘concept,’ evoking the ‘already conceived.’ Furthermore, as for the pragmatist maxim [74], a crucial observation is made by [23] and related to the famous definition of ‘meaning’ proposed by Peirce in the same essay just cited. It is worth briefly recalling the specific observations made by Dewey in his essay—perhaps not coincidentally, on a legal topic—regarding the subject-matter of corporations’ legal personality. What is relevant, from a theoretical and semiotic point of view, lies in the fact that Dewey, in order to solve various legal problems addressed in that essay, makes an explicit referral to the pragmatist principle formulated by Peirce: “Consider what effects, that might conceivably have practical bearings, we conceive the object of our conception to have. Then, our conception of these effects is the whole of our conception of the object.” Dewey broadens thegnoseological scope of the Peircean principle by calling into play an ‘extensive abstraction’ that applies also beyond the pragmatic or physical implications (bearings, in Peirce’s words) and has as its object the entire scope of ‘reciprocal relationships’ (between signs). Dewey writes: ‘The mode of definition, however, has no inherent dependence upon pragmatism as a philosophy. It has been stated and adopted on the basis of analysis of mathematics and physics by writers who would be horrified to be called pragmatists. Thus stated, it is the principle known as ‘extensive abstraction,’ and assumes this form: ‘...what really matters to science is not the inner nature of objects but their mutual relations, and that any set of terms with the right mutual relations will answer all scientific purposes as well as any other set with the same sort of relations.’” Broad, *Scientific Thought* (1923) 39. The idea and the name are taken, however, by him from A. N. Whitehead. This is a more general statement than Peirce’s, because it applies to mathematical concepts, such as “point,” whose “consequences” are not physical effects. In concrete matters, the “mutual relations” which count are, however, are of the nature of effects.’ The broadening hermeneutical option proposed by Dewey with regard to the pragmatist maxim had a pioneering socio-semiotic scope and is perfectly in tune with the conception of space, or rather with the spatial-connotative continuum, encapsulated in legal chorology, in turn inspired by Plato’s *Timaeus*. Dewey’s interpretation of the pragmatist maxim finds a partial confirmation, however, in a late text by Peirce [75: 235] where he says: ‘... if pragmatism is the doctrine that every conception is a conception of conceivable practical effects, it makes conception reach far beyond the practical. It allows any flight of imagination, provided this imagination ultimately alights upon a possible practical effect, and thus many hypotheses may seem at first glance to be excluded by the pragmatist maxim that are not really so excluded.’

in the tale of the war between these two cities. This clash of civilizations, which is also described as a struggle between different categorical 'constellations' and their spatial projections, remains bereft of a real winner. A mammoth telluric catastrophe signals the end of Atlantis and the disruption of Athens: as if the lack of any reconciliation implies and symbolizes the absence of any metaphorical-spatial re-composition. In the literary weft that Plato proposes, Atlantis plays the role of the 'spatial and categorical' enclosure overrunning its boundaries as a result of an expansive inclination fueled by its knowledge. Conversely, Athens has to deal with the incumbent 'contamination' of Otherness. But Plato seems to tell us that the reciprocal refusal occurring between the two Othernesses is tragically doomed to a self-disruptive earthquake. In other words, the struggle between two differently semanticized spaces and/or two different claims for the semantization of space can produce only a sort of void, that is, the vanishing of the space itself. History must begin anew. But let me cede the word to Plato⁵¹:

Plato's *Timaeus* (23D-25D)

"When Solon heard this he was astounded, he said, and with unreserved eagerness begged the priests to give him a detailed, consecutive account of all that concerned those ancient citizens. 'I won't grudge you this, Solon,' the priest replied. 'I'll tell you the story for your own benefit as well as your city's, and especially in honor of our patron goddess who has founded, nurtured and educated our cities, both yours and ours. Yours she founded first, a thousand years before ours, when she had received [e] from Earth and Hephaestus the seed from which your people were to come. Now our social arrangement, according to the records inscribed in our sacred documents, is eight thousand years old. Nine thousand years ago, then, did these fellow citizens of yours live, whose laws and whose finest achievement I'll briefly describe to you. At another time we'll go [24] through all the details one by one at our leisure and inspect the documents themselves. "Let's compare your ancient laws with ours today. You'll discover many instances that once existed among you, existing among us today. First, you'll find that the class of priests is marked off and separated from the other classes. Next, in the case of the working class, you'll find that each group—the herdsmen, the hunters and the farmers—works independently, without mixing with the others. In particular, I'm sure you've noticed that [b] our warrior class has been separated from all the others. It's been assigned by law to occupy itself exclusively with matters of war. Moreover, the style of armor used is that of shields and spears, which we were the first among the peoples of Asia to use for arming ourselves. The goddess instructed us just as she first instructed you in the regions where you live. Moreover, as for wisdom, I'm sure you can see how much attention our way of life here has devoted to it, right from the beginning. In our study [c] of the world order we have traced all our discoveries, including prophecy and health-restoring medicine, from those divine realities to human levels, and we have also acquired all the other related disciplines. This is in fact nothing less than the very same system of social order that the goddess first devised for you when she founded your city, which she did once she had chosen the region in which your

⁵¹ The following quotes from Plato's works are taken from [77].

people were born, and had discerned that the temperate climate in it throughout the seasons would bring forth [d] men of surpassing wisdom. And, being a lover of both war and wisdom, the goddess chose the region that was likely to bring forth men most like herself, and founded it first. And so you came to live there, and to observe laws such as these. In fact your laws improved even more, so that you came to surpass all other peoples in every excellence, as could be expected from those whose begetting and nurture were divine. “‘Now many great accomplishments of your city recorded here are awe-inspiring, [e] but there is one that surely surpasses them all in magnitude and excellence. The records speak of a vast power that your city once brought to a halt in its insolent March against the whole of Europe and Asia at once—a power that sprang forth from beyond, from the Atlantic ocean. For at that time this ocean was passable, since it had an island in it in front of the strait that you people say you call the ‘Pillars of Heracles.’ This island was larger than Libya and Asia combined, and it provided passage to the other islands for people who traveled in those days. From [25] those islands one could then travel to the entire continent on the other side, which surrounds that real sea beyond. Everything here inside the strait we’re talking about seems nothing but a harbor with a narrow entrance, whereas that really is an ocean out there and the land that embraces it all the way around truly deserves to be called a continent. Now on this Isle of Atlantis a great and marvelous royal power established itself, and ruled not only the whole island, but many of the other islands and parts of the continent as well. What’s more, their rule extended even inside the [b] strait, over Libya as far as Egypt, and over Europe as far as Tyrrhenia. Now one day this power gathered all of itself together, and set out to enslave all of the territory inside the strait, including your region and ours, in one fell swoop. Then it was, Solon, that your city’s might shone bright with excellence and strength, for all humankind to see. Preeminent among all others in the nobility of her spirit and in her use of all the arts of war, [c] she first rose to the leadership of the Greek cause. Later, forced to stand alone, deserted by her allies, she reached a point of extreme peril. Nevertheless she overcame the invaders and erected her monument of victory. She prevented the enslavement of those not yet enslaved, and generously freed all the rest of us who lived within the boundaries of Heracles.

Some time [d] later excessively violent earthquakes and floods occurred, and after the onset of an unbearable day and a night, your entire warrior force sank below the earth all at once, and the Isle of Atlantis likewise sank below the sea and disappeared. That is how the ocean in that region has come to be even now unnavigable and unexplorable, obstructed as it is by a layer of mud at a shallow depth, the residue of the island as it settled.”

The myth of Atlantis, the ancient Athens and their disappearing from the theatre of time has a paradigmatic significance concerning the relationship between language and space, knowledge and experience, categorical boundaries and pragmatic projections. Something similar is exposed in more general terms in the Republic with regard to the ideal city. In this case, the role of the self-overflowing Atlantis is played by the same Athens, in such a way that the connections between ‘categorical maps’ and ‘spatial boundaries of the city’ unfolds quite clearly. Initially the narrative and theoretical scene seems to be saturated by an original city. It is populated

by 'modest' (frugal) citizens and simultaneously self-contained in and by means of its geographical borders, social roles and the categorical schemes useful to make people understand and mold the urban world. Abruptly, however, on the backdrop filled by this picture of perfect conceptual and socio-political equilibrium, a different behavioral, epistemological, and geographical dimension begins to loom. Who subverts the previous imagined order and its peaceful 'enclosure' is Glaucon, who ironically turns to Socrates as follows:

Plato's Republic (II: 372A-373A).

"It seems that you make your people feast without any delicacies [relish, or relishes],⁵² Glaucon interrupted. True enough, I said, I was forgetting that they'll obviously need salt, olives, cheese, boiled roots, and vegetables of the sort they cook in the country. We'll give them desserts, too, of course, consisting of figs, chickpeas, and beans, and they'll roast myrtle and acorns before the fire, drinking moderately. And so they'll live in peace and good health, and when they [d] die at a ripe old age, they'll bequeath a similar life to their children. If you were founding a city for pigs, Socrates, he replied, wouldn't you fatten them on the same diet? Then how should I feed these people, Glaucon? I asked. In the conventional way. If they aren't to suffer hardship, they should recline on proper couches, dine at a table, and have the delicacies and desserts that people have nowadays. [e] All right, I understand. It isn't merely the origin of a city that we're considering, it seems, but the origin of a luxurious city. And that may not be a bad idea, for by examining it, we might very well see how justice and injustice grow up in cities. Yet the true city, in my opinion, is the one we've described, the healthy one, as it were. But let's study a city with a [373] fever, if that's what you want. There's nothing to stop us. The things I mentioned earlier and the way of life I described won't satisfy some people, it seems, but couches, tables, and other furniture will have to be added, and, of course, all sorts of delicacies, perfumed oils, incense, prostitutes, and pastries. We mustn't provide them only with the necessities we mentioned at first, such as houses, clothes, and shoes, but painting and embroidery must be begun, and gold, ivory, and the like acquired. Isn't that so? [b] Yes."

Behind the overrunning of Athens is—much like Atlantis—an inner cultural motility. More specifically, what Glaucon sees in turmoil are the needs, desires, social roles and meanings growing in the city. Its frugal complexion is not enough for itself. Socrates, on the other hand, underscores the luxurious aspect of this propensity toward what is beyond sufficiency—which could be termed also as an anthropo-ethical sufficiency. But Glaucon's metaphorical and ironic referral to 'delicacies', perhaps rendered even better as 'relish',⁵³ conjures up the linguistic concept of 'rema' (in English: 'theme'), namely the part of an enunciation that gives 'more' information about the 'theme', or 'topic.' This 'more' can coincide with the 'predicate,' and yet the predication itself can function as a metaphorical path toward the

⁵² 'Relish', or 'relishes' is, in my view, a preferable translation. Actually, the Greek term used by Plato is 'ὄψον' (ópson) which relates to what is to be eaten accompanied by bread, as for example meat or fish, but also salt or sauce. For the translation of 'ὄψον' with 'relish,' or 'relishes,' see, among others, [76].

⁵³ See previous note.

construction of a category or, more generally, of all categories. ‘Rheme,’ in turn, is etymologically rooted in the term ‘reuma’, from which also comes the meaning of ‘rema’ as ‘current.’ Glaucon’s relish evokes, in other words, the exceedance and, at the same time, the uncontainable (with a neologism: *unenclosurable*) tendency of categories towards trans-categoriality and the production of metaphorical shifting. Language and categorical constellations are inherently on the move and shift as continuously as the sea current; water runs over itself, overflowing from one location to recreate elsewhere other liquid spatialities. This simultaneously cognitive and spatial movement constitutes the content of the immediate reaction of Socrates to Glaucon’s description of the ‘upgraded’ city. But it would be better to read his words directly:

Plato’s Republic (II: 373B-374A)

“Then we must enlarge our city, for the healthy one is no longer adequate. We must increase it in size and fill it with a multitude of things that go beyond what is necessary for a city—hunters, for example, and artists or imitators, many of whom work with shapes and colors, many with music. And there’ll be poets and their assistants, actors, choral dancers, contractors, and makers of all kinds of devices, including, among other things, those needed for the adornment of women. And so we’ll need more servants, [c] too. Or don’t you think that we’ll need tutors, wet nurses, nannies, beauticians, barbers, chefs, cooks, and swineherds? We didn’t need any of these in our earlier city, but we’ll need them in this one. And we’ll also need many more cattle, won’t we, if the people are going to eat meat? Of course. And if we live like that, we’ll have a far greater need for doctors than [d] we did before? Much greater. And the land [kóra],⁵⁴ I suppose, that used to be adequate to feed the population we had then, will cease to be adequate and become too small. What do you think? The same. Then we’ll have to seize some of our neighbors’ land [kóra] if we’re to have enough pasture and ploughland. And won’t our neighbors want to seize part of ours as well, if they too have surrendered themselves to the endless acquisition of money and have overstepped the limit of their necessities? [e] That’s completely inevitable, Socrates. Then our next step will be war, Glaucon, won’t it? It will. We won’t say yet whether the effects of war are good or bad but only that we’ve now found the origins of war. It comes from those same desires that are most of all responsible for the bad things that happen to cities and the individuals in them. That’s right. Then the city must be further enlarged, and not just by a small number, either, but by a whole army, which will do battle with the invaders in [374] defense of the city’s substantial wealth and all the other things we mentioned. Why aren’t the citizens themselves adequate for that purpose? They won’t be, if the agreement you and the rest of us made when we were founding the city was a good one, for surely we agreed, if you remember, that it’s impossible for a single person to practice many crafts or professions well.”

Socrates says that in order to satisfy all these new luxurious desires they (the inhabitants of the ideal Athens) would need more territory. More specifically,

⁵⁴ The term used by Plato is ‘κόρᾱ’ (kórā), or ‘κόρᾱ’ (kóřā). It is also translatable as ‘territory’, ‘region’ and ‘space’. The translation ‘territory’ can be found, for example, in [76].

Socrates focuses on the insufficiency of the original width of the country, and in order to illustrate this he uses the word 'kóra.' The same word is employed, a few lines below, when he mentions the neighbors' land. But 'kóra' is also the term included in *Timaeus* to define a dimension preexisting the creation of the cosmos and, as such, beyond—and yet co-present to—the eternal universe of ideas, the material/experiential world and their dialectical relations. 'Kóra' is described by Plato, in *Timaeus*, as a receptacle, a sort spatial connotative *continuum*, devoid of determinations but just for this reason 'working' as a prerequisite for the existence of both the material world and, despite their eternity, even ideas.⁵⁵

In ancient Greek, 'kóra' can signify a region, a topographical portion of space, as well as 'spatiality' in and of itself. In my view, 'kóra' is to be intended as the properties/qualities *continuum* extant among all categories, as such ubiquitous, despite their semantic and spatial differences. 'Chorology' is the name that can be given to the cognitive efforts oriented to grasp the emergence of this *continuum* among categories whenever their stability is put in motion.⁵⁶ It is interesting, from this point of view, to notice that in the previously quoted passage of *Republic*, Socrates seems to allude almost simultaneously to socio-politically and cognitively bounded portions of space as well as to their overcoming, ending in a final conflation. New needs require an enlargement of Athens' boundaries and then the war to take over the spaces previously occupied by other people. Nonetheless, this movement is imagined as reciprocal since Socrates envisages the desire of other populations to enlarge their living space, as well. All the social roles inside the city will be shaken and subverted by this process of enlargement. New social categories, endowed with specific competences, are to be invented and educated, including warriors. Nonetheless the reciprocity of excluding or conquering desires leads, in Socrates' words, to an enlargement of the city, a sort of more-comprehensive social and legalized space able to include Otherness: that is, what previously was outside the categorical and political universe of the frugal Athens.

On the other hand, Socrates himself sets aside the possibility of a war against other Greek cities because all their populations belong to a common (historical) lineage. But, if there is to be *no space* for war, then the projections towards the outside and Otherness of all Greek cities cannot wind up otherwise than merging their cognitive, political and existential spaces. What is relevant for this essay in Socrates' rendering of the future implications related to the overcoming of the cognitive and spatial boundaries of the frugal Athens is a sort double movement involving a symmetrical proclivity of all human urban 'enclosures.' Athens overflows from itself towards Others' spaces, but at the same time, it must face the symmetrical Others' exceeding their original 'enclosures.' This common destiny, which is also part of a shared lineage, seems to drive the final upshot of the city's process of transmutation

⁵⁵ My interpretation of 'kóra' is inspired by [93] and significantly differs from [22] conception.

⁵⁶ See Sallis [93]. Some interesting observations about the idea of 'semantic continuum' from a Peircean perspective can be found in [53: 69 ff.; 182 ff.]. Moreover, in the same text can be found an interesting Peirce-inspired analysis of categories and semantic borders through the metaphor of 'gardens' and 'enclosures': [53: 3–44].

out from the morasses of a pure dialectic antagonistic opposition. Otherness and the space outside seem to embody the dimension of difference rather than its opposite. Socrates' allusion to the imperative of averting a war because of a common lineage, even if anachronistically, sounds as if it were evoking Wittgenstein's 'family resemblances' or the radial categorical projections of the contemporary psycho-cognitive theory of categorization, including (... if distantly and partially) Deleuze's rhizomatic approach.

The cognitive and political movement described in this section of the Republic appears quite isomorphic to the back-and-forth shifting involved in the metaphorical process, which ends with a creative moment of reconciliation (*rapprochement*). This outcome coincides with the drawing of a new categorical space, and thereby a newly spatialized experiential 'areal,' within which the axes of categorical saliences and the center-periphery relationships among the categorical components have been remodeled. The newly enlarged city could be considered the result of this extroverting and re-introverting development.

And yet, we must also note, Socrates dubs the luxurious city as a sick one. At the same time, however, he recognizes that the transformation can offer a useful observational terrain to understand the source of justice and injustice. On the other hand, Glaucon sarcastically rebuts that it would be pure nonsense to condemn citizens to live as pigs just to avert any possible dawning of injustice. Glaucon's argument is, in turn, a metaphor, but it shows a weird continuity between human beings and pigs, directed to emphasize the condition of the citizens of Athens, should they remain eternally ensnared in a situation of forced frugality. This predicative continuity, however, transforms the luxurious city into a possible 'predicate' of the frugal one, and thereby establishes a metaphorical relationship between the citizens of the first city and those of the second. The enlarged city to which Socrates devotes the subsequent planning of an ideal Athens is like an enfolding that follows an excursion towards exterior space (*kóra*), which is to be intended as a trans-categorical and, simultaneously, a trans-territorial movement. The wider city is a synthesis, a kind of negotiation/transaction aimed at controlling the destructive excesses encapsulated in luxurious desires.

What is crucial in Glaucon's objection and in Socrates' thoughtful reaction is the necessity of law to come to terms with categorical semantic exceedance so as to include 'the more,' 'the beyond' and the 'Otherness' bridged by trans-categorical continuity and manifestly embodied by metaphorical movement. Glaucon cautions Socrates against the kinds of laws that aspire to determine what humans should be by completely overlooking what they are. Self-referential laws run the risk of proving themselves to be suited only for a drove of pigs. But along this anthropological descent, they would utterly miss their own orientation to the good. The non-porcine developmental attitude of human beings should be addressed by law and constitutes an inherent element of its source of legitimation. From this perspective, law should not so much indulge human desires considered as something opposite to wisdom and goodness, but rather follow the metaphorical paths that continually and irrepressibly renew the categories and experiential spaces of human beings. As a key factor in the process of civilization, law must be in tune with its rhythm of transformation. This necessity should not be understood as a heteroconous limit but, instead, as a

co-constitutive feature of law, an expression of the intimate connection between law and sense, legal language and experiential language.

The enlarged city of the Republic constitutes, therefore, the final result of a trans-categorical and an inter-spatial transaction gushing up from the combinatory and creative merging of differences which are made different—and therefore semantically and experientially amenable to recombination—just by virtue of their metaphorical trans-lation (to be intended in its etymological collateral meaning of 'transport', 'transferral', from the *Latin* 'trans-fero' and the ancient Greek 'meta-pherein').

These last reflections lead directly back to the initial issue addressed by this essay, namely the limits of law and the relationship between legal language and 'natural language.'

3 How the Limits to the 'Limits of Law' Make Legal Semantic Resources Mobile

The irrepressible self-transformation of natural language and its inherent trans-categoriality, often concomitant with the activation of metaphorical processes, cannot be ignored by legal systems even when they aim (at least, according to some theoretical representations) at a self-referential foundation. As argued above, this occurs because legal language cannot avoid including in itself elements belonging to, and originating in, natural language. As self-referential as a legal system is or tries to be, it cannot exclude from its language the metaphorical transposition of the natural one and its constitutive elements. And even when an extra-linguistic tuning between legal statements and sensory representations of reality should be assumed,⁵⁷ the complete effectiveness of law, the utter transmutation of its prescriptions into 'effectual reality,' would be nothing but the transformation of its metaphorical projections into dead metaphors, that is, their linguistic and experiential 'normalization.' Furthermore, at the very moment when law would have achieved its absolute actualization or effectiveness, it would cease to make sense.

The world that legal rules draw is an imaginary world. From a logical point of view, it presumes its non-necessary-reality and thereby the possibility to disobey its rules, as well. These cannot prescribe something corresponding to a natural necessity, namely something impossible not to do or which is impossible to not happen. Law's efficacy constitutively presupposes its infringement. Such a logical evidence is based, however, on a kind of archetypical, and thereby experiential, ground, which assumes axiomatic significance within the legal language and the social contexts (according to the Latin brocard: *ubi societas, ibi ius*). On the other hand, it would be enough to order someone not to do something that is impossible to do, to excite hilarity in the addressee of the command. But precisely that hilarity is nothing but a

⁵⁷ Needless to say, this supposition does not at all exclude the existence of non-verbal languages. It is designed to raise the abstract possibility of a relationship between legal language and the extra-legal world, which is not mediated by natural language: that is, which does not pass through a relationship between legal language and the natural one.

reaction to the breach of a deep archetypal assumption, the result of which is the perception of a paradoxical, radically inconsistent claim. Nonetheless, both hilarity and paradoxicality, exactly as the comic and the tragic, can be transcended when a new horizon of sense is looming as a result of the emergence of a metaphorically conveyed thirdness.⁵⁸ That is also to say that the pre-conditions of hilarity are, at any rate, cultural, and therefore can change together with the meanings of each universe of discourse.⁵⁹

Law is partially alternative to mere facticity, but it is not unrelated to it. According to the tremendous lessons enshrined in the literary loci examined above, this relatedness applies also to all forms of metaphorical expression. If unmoored from their link with ordinary language (embodying the *molar* understanding of words) metaphorical expressions and their inherent renewing thirdness would be bereft of any sense and, especially, capacity of semantic innovation.⁶⁰ Precisely to make sense, any world outlined by law includes the 'other than itself.' This is due also to the 'mere circumstance' that all legal languages are axiologically and teleologically laden. What they order is legitimate and deserves obedience insofar as it is designed for the achievement of 'good'—intrinsically diversified in all the constellations of value that the idea of good, in different cultures, comprises. However, the 'good' and related values are, in turn, logically and archetypically grounded in what we could define as a 'dialectics of absence.' 'Value' can only be 'something' that may not be. Sometimes this feature of values is overshadowed by their onto-phenomenological conception. Nonetheless and despite the eidetic 'reality' of values, they are strictly related to human conduct. Either directly or indirectly the recognition of a value implies some directive to act in a specific way so as to assure the actualization of that value or its maintenance. In short, indicating a value is always followed by some kind of instruction about what it is good to do. But such an instruction is endowed with logical and pragmatic signification insofar as the actualization of that value relies upon human conduct and requires both a previous human appreciation and the assumption of specific behavioral attitudes. Behind and before the delivery of any axiological/teleological instruction or directive there has to be, however, the possibility of the concrete or phenomenal non-actualization of the value at stake (or the situations underpinning its topical achievement).

⁵⁸ As for [85] and [35] theories of the comic and the possibility to transcend hilarity and tragedy through a thirdness resulting from the transformation of the dialectical inconsistency that involves the opposite terms triggering and constituting the 'comic' and the 'tragic,' see [86].

⁵⁹ From this point of view, even Lichtenberg's famous paradoxical expression 'A knife without a blade, for which the handle is missing', so seriously considered by both [35] and [105 (among other writings)], could 'migrate' from the area of 'nonsensical' to that of 'meaningful.' Beyond Wittgenstein's observation about the 'identity' of a knife with a substituted blade, see at <https://www.alibaba.com/showroom/knives-without-handles.html> for an array of knives originally constructed without any handle... to which could may even be missing the blade. On the other hand, in our era of plastic surgery, even Rostand's *Cyrano* and his huge nose would no longer be tragic nor comic.

⁶⁰ In a sense this is the 'magic' of metaphor, which, if genuine and cognitively productive, remolds its own landscape of pertinence but without completely overshadowing and erasing the traces of the past categorizations: see [89].

The above argument, however, does not deny that law tends towards facticity, that is, the transformation of its prescriptions into factual situations. It implies, rather, that the coincidence between law and fact is to be intended and pursued only asymptotically. Nonetheless—it is yet again to be strongly emphasized—law could not exclude the world of facts and its universe of discourse from the enunciations that shape the legal discursive and experiential universe. And it is so if for no other reason than because law must include in itself, at least implicitly, the possibility of a world 'other' than that it prescriptively envisages; and this precisely in order its prescriptions to be able to make sense against the foil constituted by something Other than themselves. However, such an 'other world' is already and originally the 'natural world' defined or definable within the 'natural universe of discourse,' which implies also an inherent tendency to the self-transformation and metaphorization of its categories (namely trans-categoriality).

The mutual implication between the deontic universe of discourse and the natural one (after all, even law is a social phenomenon) makes it so that the meaning (or better, the sense) of legal statements continually interplays and relies upon the meaning of the categories which those enunciations include in their phrastic (descriptive) parts. This implies that the sense and also the legitimacy of legal prescriptions cannot be unhooked from how the world of natural facts is forged by natural language and the reasons for which this world is, or fails to be aligned with legal prescriptions. Hence, the trans-categoriality of the descriptive terms employed in legal enunciations cannot be considered as a phenomenon that self-referentially exhausts itself within the boundaries of the legal universe of discourse. On the contrary, legal reasoning has to continually translate—and thereby renew its constitutive metaphorical process—its factual components from the natural universe of discourse, including their tendency to self-transformation and trans-categoriality.

As has been emphasized in the first section, the most problematic task for judges as well as legal practitioners and citizens is to set up the minor premise of legal syllogism. This work is a translational/metaphorical one, which involves in any case creativity, discretion, assessment and evaluation. The qualification of the situation to be read through the legal lens and the meaning of its factual/empirical components is a hermeneutical operation that is to be considered neither deductive nor inductive, but rather abductive. The choice to categorize the factual/empirical elements of the situation in one way or another depends on the properties and connotations that the interpreter selects from the semantic warp and weft of experiential stream that is to be legally qualified. S/he can decide to consider salient some of them and, conversely, overlook or underestimate others. Nevertheless s/he is not enabled to make a random choice.⁶¹ The interpreter is called upon to justify why s/he does not consider one factual element or another as salient, and vice versa. However, such kinds of

⁶¹ Insofar as translation is always a transposition from one universe of discourse to another, it always entails some degree of metaphorical transformation and creativity. On the possible dangers lurking in a partisan and unbalanced use of metaphor in legal experience, see the interesting analysis proposed by [107: 61 ff.] based on a critical assessment of [106] theory of legal interpretation and [50] theory of cognitive metaphors.

hermeneutic commitment can also trigger the issue of why some facts, objects or behavior are included, or instead excluded, from a category even if they show properties and connotations which are respectively common to, or different from, those deployed by the items/tokens comprised in the same category.

As noted above, categorical checklists always emerge from an axiological and/or teleological specious selection.⁶² In semiotic (Peircean) terms, any category (type) can be considered as an epitome of all the implications or bearings constitutive of it and even its tokens. From a narrative/experiential perspective, that epitome can be assumed as an end, and its implications/bearings as means. In a sense, and by transfiguring/paraphrasing Aristotle, we could parallel the relationship between 'essence' and 'properties' with the connection between 'ends' and 'means.'⁶³ Indeed, it is not irrelevant to observe that Aquinas considered, from a cognitive point of view, the first relationship based on the second: a view which provides, even if anachronistically, a kind of pioneering merging of the ontological approach and the modern pragmatist/teleological one.⁶⁴ If we intend the categorical checklists and their semantic boundaries as axiologically/teleologically based and oriented, then the array of properties and connotations composing them will enjoy, and be subjected to, the same semantic and pragmatic plasticity.

Furthermore, as is well known, axiological and teleological categories are trans-categorical with respect to empirical categorizations. Actually, the same value or end can be reached by combining, even with regard to the specific contexts, different means, often utterly incommensurable with each another if considered from a categorical-empirical point of view. This observation can also be applied to all qualitative and emotional categories, which constitute the nub of values and ends according to the dialectical, if not even circular, sequence—already noted above—appreciation/evaluation.⁶⁵ The empirical trans-categoriality of axiological and teleological categories is the pre-condition, but also the motor, of metaphorical processes. In many cases, the trans-categorical ubiquity of some properties and connotations, which may be connoted by a qualitative aspect, can reveal a kind of continuity between different categorical domains; that continuity, in turn, can trigger and then convey the metaphorical conflating of the related semantic spectrums.

In many cases, the legal interpreter, precisely when s/he is engaged with the abductive definition of the second premise of a (para-)syllogistic reasoning, must

⁶² I would like to cite here a book from some years ago by [48], precisely because he is an exponent of the analytical-generative strain in the approach to language. See, specifically, the section titled 'The Non-categorical Nature of Categorization' [48: 139].

⁶³ See Aristotle's famous passages in his *Parts of Animals*, I. i. 639^b-640^b, where he defines the relationship between the features and the whole of an entity as ordered to a 'hypothetical necessity', the same that drives—according to him—the creative action carried out by both nature and the human artist. The example given there is the building of a house, which has become over time a literary landmark for all the subsequent theories about the dialectics of means/ends (see, for example, Hegel and then, in a pragmatist fashion, Dewey).

⁶⁴ See Thomas Aquinas, 'In decem libros ethicorum Aristotelis ad Nicomachum expositio,' lib. I, lec. I.

⁶⁵ This is also the reason for which values cannot be taken as something that universally and aprioristically pre-exists the activity of appreciation. Even the 'meaning' of the biological attitudes of human beings is the consequence of a specious retrospective gaze cast on it from the 'height' of the future.

face the 'revelation' of a trans-categorical continuity—which can also be elicited when pursuing her/his own or another's interests—for example, if s/he is a lawyer. At that point, s/he will have to justify to himself, and to the other legal subjects involved, why a specific situation (an individual, a group, an object, a fact, or a behavior, hereinafter generically termed as an 'item') is to be placed outside or inside a specific category. Any interpreter can be led to collide against such dilemmas by the continuous unfolding of experience and the creative attitude of a human mind relentlessly and irrepressibly concerned with the renewing of categorizations.

In pragmatic terms, the interpreter could exclude a specific 'item' (or 'token') from a category because its morphological appearances and features are not *in tune with* the categorical checklist. Nonetheless, such exclusion has to be combined with the possibility that some properties, connotations, and qualities featuring the elements included in the category can also be found in the excluded 'item,' and the other entities belonging to the alternative categories in which it is placed. But this continuity can become a lever to challenge the previous exclusion as soon as the respective categorical checklists are observed as collections of means to ends. From such a different perspective, morphological differences can no longer justify exclusion, insofar as the 'different item' proves itself to be related and useful to the actualization and the achievement of the value/end that is linguistically epitomized by the symbolic definition of the category and its checklist.⁶⁶

When a situation like this takes shape, linguistic universes of discourse have to cope with the possibility of collapse. To return to the metaphor of the 'garden,' what can occur is nothing but a collapse of the 'enclosure's boundaries' because of the semantic and spatial continuity between what is inside and what is outside its 'walls.' Consequentially, any decision to expel the 'item' at stake, can assume the meaning of discrimination: an unreasonable differentiation with regard to the axiological/teleological ground of all categorizations. But such a collapse is, in turn, the consequence of the basic and ultimate link between linguistic categories and sense.

These dynamics, which occur in all universes of discourse (semantic and experiential 'gardens'), are particularly applicable to legal discourse. As already observed, legal enunciations have an explicit connection with their axiological/teleological assumptions, and this also involves the empirical categorization they include in their phrastic parts. Therefore, including or excluding an 'item' in the abductive

⁶⁶ From this point of view, all analytical and procedural theories of legal justification and/or reasoning which are based on hierarchical as well as systemic/functional semantics seem to me unable to immunize themselves from the cognitive transmuting inherent in all the descriptive categories that legal language needs to involve in its statements. For an interesting and critical overview of the huge literature on this topic see [5, 6]; with specific regard to the analytical legal approach, see above. I would like to emphasize that the cognitive motility tied to the descriptive parts of legal statements assumes crucial relevance when legal cases involve cultural differences. This prompts the necessity to carry out intercultural translations precisely to accomplish the task of genuinely and non-ethnocentrically defining the second premise of the syllogistic reasoning. Actually, multiculturalism could be said to be a situation in which the fences, boundaries, walls, frontiers, and limits of the legal (and experiential) garden have already shattered. That is to say that society needs a new 'semantic social contract,' only because when multiculturalism takes shape on the horizon of quotidian life, interculturality has already found its place—however uncomfortable and precarious—within the social and semantic 'garden.'

construction of the second premise of a legal syllogism and its categorical assumptions must always face (at least potentially) the exception for which that inclusion or exclusion can betray the actualization or the achievement of the values/ends underlying the legitimacy of the rule applied to the case. Of course, shedding light on the semantic processes that make the legal ‘garden’s boundaries’ collapse does not imply an ability to foresee the final outcomes of the hermeneutic process. It could result in a different construction of the second premise of the legal syllogism by assuming other legal statements to be applied to the case; or even in an enlargement or a restriction of the categorical breadth of the empirical terms included in the legal enunciation by means of a metaphorical transposition/translation. A conservative attitude, of course, could be indulged too, although it could run the risk of maintaining the semantic and axiological sameness of its decisions only from an—as it were—‘enunciative’ point of view; conversely they could completely fail to grasp the meaning of their consequences as to a ‘reality’ which is cognitively ‘other’ than that which they presume as (still) extant. In any case, it cannot be ruled out that the semantic renewing reaches the apexes of the legal universe of discourse (or legal systems) so as to interpretatively reframe the meaning of its foundational principles and values/ends, namely the whole sets of the possible contents to be employed as a first premise of legal reasoning.

4 Conclusion, and Beyond

The most important finding stemming from this essay’s literary-theoretical journey is, however, that the limits of ‘the limits of law’ are grounded in the impossibility for the legal interpreter, and the overall universe of discourse in which s/he acts, to ignore the natural legal language, its inner mobility and self-transformations. Such impossibility, in turn, depends on the axiological/teleological relevance that the properties and connotations of empirical ‘items’ can demonstrate with regard to the same values/ends underlying the legitimacy of any legal system and the *régime de véridiction* of its universe of discourse. Therefore, the social contract that the political and legal doctrine metaphorically lays down as the foundation for the legitimacy of law and its discursive universe is strictly intertwined with the semantic *contrat de véridiction* (in Greimas’ terms) underlying the natural social language and the parts of it included, in turn, in legal enunciations. On the other hand, the values/ends underpinning the legal system are necessarily astride both the boundaries of its universe of discourse and the natural linguistic/experiential universe. At least potentially, there is no cognitive issue concerning the categorization of facts that is incapable of triggering a critical involvement of the values/ends that foundationally legitimate the legal system. But this means that a renewed debate on the meaning and scope of the *Grundnorm* (Kelsen) or the *Rule of Recognition* (Hart) [44] can start from any point or rule of the legal system, any problem of categorization, any

case nesting in the midst of legal experience and calling into play the application of a legal rule (Ross).⁶⁷

As in the literary metaphor of Eden (and even more intensively), both Otherness and the inclination towards it are inherent in the legal universe of discourse. The creative construction of the second premise of legal syllogism is not so much the dialectical synthesis between opposites as rather a semantic re-negotiation (rapprochement) among differences recomposed in a third dimension, which can gradually give shape to 'third' categories. If conceived along these lines, this process of hermeneutical and semantic re-composition of the categorical apparatus involved in legal enunciations makes visible the dialoging relationship between law and sense, values and facts, language and experience, imperatives and needs, validity and conditions for effectiveness. It shows a kind of constitutively imperfect and asymptotic circularity between the domain of 'ought' and that of 'being.' It makes it so that the cognitive role exerted by values and ends in the shaping of the categorical borders of factual 'items' included in legal enunciations transform not only their meaning but even, almost through the self-enactment of this change, the same perception of material entities in the sensorial and experiential folds of the natural universe of discourse: which, *inter alia*, hints at the chorological continuity between meaning and space, semantic boundaries and spatial borders.⁶⁸ By virtue of the translational/metaphorical process that the second premise of legal reasoning entails, values/ends can remold the cognitive approach to the empirical world and its categorization, provided that this inclination towards the coincidence between the different discursive universes maintains the integrity of its *incompleteness*. Should this incompleteness fall apart, even law (as well as ethics) would no longer make sense. The limits to

⁶⁷ In this regard, I am fully aware that the objection could be that in any case the legal system ultimately will reaffirm its self-referentiality because the final decision about the categorical borders and the axiological relevance of trans-categorical properties and connotations is taken by institutional agencies. This is, *inter alia*, also the fundamental assumption of autopoietic reading of legal systems [66, 99]. Nonetheless my counter-argument is that one thing is the self-referentially grounded possibility to ignore what is outside the system and the unfettered applications of the binary legal/illegal, namely inside/outside, code/criterion; meanwhile it is something else entirely to examine the systemic relevance of what (the elements of natural language and their trans-categoriality) is simultaneously outside and inside the legal universe of discourse and directly reacts on the meaning of the same values legitimizing the legal system. Values which, in turn, semantically have—as it were—a foot inside and a foot outside the legal universe of discourse. To face these situations the legal system, precisely in pursuing its alleged absolute self-referentiality, is compelled to cast on itself a gaze leaning on heteropoietic/heteroclit elements, in short a view from without. But this is nothing but a relativization of the theorem of a completely self-bounded autopoiesis. The above arguments are not intended to assert that in legal experience some degree of self-referentiality and discursive 'closeness' is absent, but only to underscore that autopoiesis cannot be taken as something absolute. In other words, no one can dissimulate the force of authority and power, but authority is not synonymous with complete autopoiesis and self-referentiality because it cannot utterly unmoor itself from the dynamic of meaning and the related inherent openness. See, from a semiotic analysis of legal functionalist theories, the insightful and pragmatically-cognizant considerations developed by [31: 146–150].

⁶⁸ See above § 1. I have paralleled the semantic borders and the spatial borders with regard to the relativization of the physical geographical boundaries of state sovereignty in other works dedicated to legal chorology [82, 84]. How and why the meaning-space *continuum* can transform an inter-spatial remoteness into a categorical/experiential proximity, and vice versa, is the specific topic of a series of my works.

‘the limits of law’ have a cognitive source and justification, but they necessarily rely upon the limits of ‘cognition’ itself, which could be epitomized in the heuristic warning to use categories with ‘modesty’ without ever forgoing the fruitful bearings of their latent, sometimes invisible, ‘un-conceptuality’.⁶⁹

To unveil and operationalize this un-conceptuality and its consequences so as to make ‘visible’ the limits to ‘the limits of law,’ it is enough to undertake the discomposition of the semiotic process summarized by any category and the lessems we use to symbolize it. That discomposition is capable of bringing to the surface the denotative and connotative landscapes behind the categories and relativizing their reciprocal distinctions and boundaries by reason of the axiological/teleological continuity of their respective semantic components. Such a narrative-discompositional method serves as a door open towards the critical consideration and self-reflexive understanding of Otherness.⁷⁰ And this is so both when such Otherness results from the self-projection of the element of a legal and social universe of discourse toward a self-germinating difference, as such fueled by the tendency to trans-categoriality, and when the Otherness breaks into that universe of discourse from without, or knocks at the doors of ‘its Edenic enclosure.’

The final lesson that can be learned from the myth of Eden and the other similar literary loci is that no universe of discourse is enough in itself, most of all the legal universe. The use of law must, therefore, draw on all the other linguistic and cognitive domains orbiting around the natural language if only because each of them can provide semantic indexes relevant to ascertain the semantic matter of the case lying under the legal lens. Literature, anthropology, sociology, psychology, medicine, geography and so on, even up to astronomy, can show how and why the worlds to which legal rules are to be applied differ from the categorical assumptions that up until a given time have been encapsulated in law’s universe of discourse. In this sense, I think that the very challenge is not to probe the unexpected ties or relations between law *and* literature, law *and* anthropology, law *and* sociology, law *and* the various kinds of hard sciences, but rather to consider the neglected, unrecognized or underestimated presence of the worlds of experience investigated by these disciplines and which already nests inside the legal universe of discourse. Inasmuch as law involves elements that are also co-present in the natural universe of discourse, and this is, in turn, the subject-matter of other disciplinary discursive universes, then these are to be considered constitutively part and parcel of the legal linguistic and experiential world. Any failure to grasp this connection risks jeopardizing the (cognitive) consistency between means and ends that supports the legitimacy of legal rules. As a consequence, in my view, an interdisciplinary understanding of the legal universe of discourse and the limits to ‘its limits’ is better captured by expressions such as ‘literature in law,’ ‘anthropology in law,’ etc. This is the only way law can survive the categorical stiffness so often invoked to assure that legal certainty, together with the quest for it, paradoxically ends up turning into an unforeseeable

⁶⁹ ...or ‘not-definitiveness’. See [8].

⁷⁰ I developed and illustrated this method more broadly with regard to intercultural legal translation in several works to which, because of inescapable space limitations, I can here only refer to [79–83, 86].

uncertainty because of the law's dynamics. A phenomenon that is anything but rare, especially when, as in present times, the cultural pre-conditions of law's efficacy and (even before) significance are deeply transforming as a result of technological developments and geographical mobility.

Ignoring the self-transformation of the extra-legal universes of discourse and their legal relevance would turn the study of law and its application into the preservation of an ossified entity—a sort of cryostasis, where law becomes a kind of cultural corpse—and a social context in which it, bound by a specific time, is presumed be in tune.⁷¹ And even if this represented nothing more than an attempt to preserve the life of society and its law from chaos, I think that the oneiric plan to hibernate human development and the self-transformation of cognitive categories would end up crashing into Glaucon's argument against Socrates' idea of a frugal Athens. The enclosure of a self-bounded and self-referential law would become a mere corral for 'blessed pigs.'⁷²

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⁷¹ This assertion implicitly rejects Kelsen's [51: 112 ff.] (but see also the crucial passages at [51: 435–36]) distinction between static and dynamic legal systems based on a formal mechanism/procedure of normative production. Conversely, I think that the semantic dimension of legal discourse can assure any legal system the possibility to renew itself and, more importantly, self-transform in a responsive way so as to keep in tune with the unfolding of social semiosis. Kelsen's formal legal dynamics, instead, seems to me to rely upon and take for granted the cultural stability of society. This is, on the other hand, also the prerequisite to presume as extant a semantic communicative fabric stiffened enough to allow—as Kelsen envisaged—the solution of legal controversies exclusively according to the formal hierarchy of the sources of law and the institutional competence of the subjects endowed with the power to produce legal decisions. But, in all likelihood, this is also the reason Hermann Heller [45], the champion of the value-based constitutional pluralism at the time of Weimar Republic, accused Kelsen, precisely by virtue of his formalism, of being nothing less than the executor of Jellinek's bourgeois liberal approach to law: [46]. The charge that Heller cast against Kelsen was perhaps too fierce; and yet, if analyzed from a semi-otic perspective, Heller's deepest motivations would now deserve a careful reconsideration.

⁷² To conclusively close the circle with Greimas' approach to the legal discursive universe I would like to emphasize, once more, that law is not coincident with figuration. Its relationship with reality is not isomorphic; in some sense, it is not even isotopic. Conversely, from a perspective, law exploits such non-isotopy, or imperfect isotopy, combined with its own informative entropy, to survive through time. Law uses words not as figurative substitutes of real entities or phenomena, but rather as pragmatic means/tools. Law is not coextensive with its words taken in their static meaningfulness. On the contrary, it is the set of all the effects of legal words insofar as they are projected onto and through the semantic mobile landscapes of experience. Otherwise the highest certainty of law would transmute in the deepest uncertainty masked by authority and passed off as truth—even if as exclusively legal truth. To quote Vico (*Ius univervis*: LXXXIII): 'Unde conficiat *certum ab auctoritate esse, ut verum a ratione, et auctoritatem cum ratione omnino pugnare posse; nam ita non leges essent, sed monstra legum*' ('the *certum*, the certain, is from authority, as *verum*, the true, is from reason, and that authority cannot completely oppose reason because otherwise there would be no laws, but monsters of law:' [103: 62] (English translation by Pinto and Diehl)).

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