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Introduction: Working the Boundaries of Law

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Abstract

This introduction to the special issue on *Working the Boundaries of Law* provides a context for the papers collected here. It locates the papers in a colloquium held in Oñati to discuss issues around this theme. It traces the significance of borders and boundaries as sites of social practice and considers how the boundaries of law are constructed and contested. The introduction then explores the sorts of practices – or labour – that go on at these boundaries – to maintain, challenge and traverse them. It points in particular to boundaries as sites of translation and emotional labour. Finally, it briefly introduces the papers that follow.

Key words

Borders; boundaries; margins; ordering; practices; translation; emotional labour

Resumen

Esta introducción al número especial *Working the Boundaries of Law* proporciona un contexto para los artículos que forman el número. Ubica los artículos en un coloquio que tuvo lugar en Oñati para debatir asuntos relacionados con el tema principal. Rastrea el significado de los límites y las fronteras como lugares de práctica social, y considera cómo se construyen y se contestan los límites de la legalidad. Después, esta introducción explora el tipo de prácticas -o trabajos- que suceden en estos límites -para mantenerlos, desafiarlos y atravesarlos. En particular, apunta a los límites como lugares de conversión y de gestión de las emociones. Por último, presenta brevemente los artículos que siguen.

Palabras clave

Fronteras; límites; márgenes; ordenamiento; prácticas; conversión; gestión de las emociones en el trabajo

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1. The colloquium

In this special issue we feature papers developed from a colloquium on *Working the Boundaries of Law* held in March 2016 at the Oñati Institute for the Sociology of Law. The Institute provided a wonderfully welcoming and supportive environment for our work. The colloquium brought together academics from socio-legal studies and the broader social sciences to explore conceptual approaches to, and evolving understanding of, practices, subjectivities and relationships at the boundaries of law. Whilst the colloquium emerged from a specific research programme, *New Sites of Legal Consciousness: a Case Study of UK advice agencies*,¹ that focused on scenes of advice-giving in which translations are enacted between law and everyday problems of employment, debt, homelessness and more, the papers in this special issue take law's boundaries to further locations, such as online sites where women seek advice on how to arrange finances and care of children following relationship breakdown; immigration lawyers working at the margins of the social and legal spheres; those lawyers looking to extend legal practice to support social enterprise and collective working. All the papers raise critical questions about the changing boundaries of legal authority about how the boundaries of law are constructed, negotiated and traversed in practice.

The invitation to the colloquium asked participants to think about their own work in relation to two key distinctions:

- **Legal/not-legal.** How is this distinction drawn in different jurisdictions? How is it translated into practice and negotiated in particular fields? What constitutes the non-legal?
- **Authorised/unauthorised practices of law.** How is the authority of law negotiated and contested in particular settings? How do actors at the margins of law – advice workers and support workers, for example – manage these boundaries and their own non-authorisation?

Within our research, the distinction between legal and not-legal had been the focus of intense discussion whose main line of development can be traced in the shift from the focus on 'legal consciousness' in the original project proposal to the focus on the 'boundaries of law' visible in the title of the colloquium and this collection. The papers in this special issue address these issues in a variety of ways, and from a range of settings. In this introduction we do three things. First, we consider how the papers at the colloquium suggested our concern with distinguishing the legal and non-legal demands by addressing the different *imaginaries* of law that circulate. Second, we explore the idea of *the boundaries of law* through a discussion of the peculiar properties of boundaries and borders as sites of social practice. Third, we consider the concept of *working* at those boundaries of law.

In setting out these issues, we draw not only on the papers in this special issue but also on the 'think pieces' that we invited participants to prepare for the colloquium, and the discussions that developed there. Alongside the authors of the papers collected here, the colloquium participants also included Nicholas Blomley, José García-Anon, Patricia Ewing, Ana Gutiérrez-Garza, Mark Hertogh, Alison Kite, Greta Olson, Janelle Orsi and Susan Silbey.

1.1. *Imaginaries of law*

Law is imagined in very different ways, and the resulting imaginaries of law play central roles in social life. In particular, they are active forces that shape popular understandings of, and orientations to, law, legal institutions, legal practices and legal practitioners. Our interest in imaginaries of law reflects a growing interest in imaginaries across the social sciences, reflecting an expanding literature that explores imaginaries or imagined relationships concerning a range of social sites or

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formations: for example, communities (Anderson 1991), geographies (Said 1995, Cameron and Palan 2004), polities (Painter 2006) or economies (Herrera 2007, Jessop 2013; see also Clarke 2014). Writing about treating the state as an imagined formation, Joe Painter has helpfully argued that:

The use of “imagined” here does not mean that relationships and processes involved are illusory: social imaginaries can have very real effects (Anderson 1983, Castoriadis 1987). Moreover, the practices, mechanisms and institutions through which processes of interpellation take place are very real. When I apply for a passport identifying me as a citizen of a state, the passport, the office and the officials that issue it, and the border post through which it allows me to pass all exist. However, the state in whose name they function is neither an aggregation of these elements, nor a separate reality behind them, but a symbolic resource on which they draw to produce their effects. (Painter 2006, 758)

Imaginaries of law are profoundly connected with popular orientations to law, in part reflecting what people hope to do with law, or what people fear it may do to them. There is the desire (or affective longing) that law should be *good* law in contrast with understandings of law as oppression. Law is sometimes seen as creative, as a facilitator for creating a more ‘just’ society; yet law is also seen as barrier or a system for maintaining injustice, or the status quo. Law may be seen as a set of overarching principles called *justice*; or as pragmatic, adaptive to changing circumstances. Law can be imagined as The Law, or even The Rule of Law, or as a changing mosaic of rules, cases, and decisions. Finally, law can be seen as something for *experts* to practise, or as a system open to all where people can defend their own case as *litigants in person*.

Ewick and Silbey (1998) remind us of the staggering endurance of law as a domain. How do these flows of *legal consciousness* flow: where do they coagulate, where do they push against each other? What do these tell us about the construction of this hegemony of law. During the colloquium, Greta Olson pushed us further towards thinking about the affective impulses that not only animate and compose this subject, but also animate us, privileged subjects seeking to arrange and negotiate abstract arrangements. If we recognise this capacity of law to endure, are we longing for it to change, for a more just law, or simply to endure in a less oppressive or intrusive fashion? Do we enact a critique of its violence, calling attention to hegemony to indicate its unseen violence, and if so, is this nonetheless animated by an affective pull?

The empirical data that Eleanor Kirk and Nicole Busby draw upon demonstrates this power of law imagined as *justice*, producing an (incredible) faith which they term “false consciousness” leading to inflated hopes and expectations. We see distinct and specific work trajectories where suddenly the affective pull of law takes over through evocations of justice and ultimate goodness. The affective desire for a good and just law is darkly mirrored in other affects when the sense of goodness is tied to an intensely disruptive and disabling process involving stress, sleepless nights, and perhaps most importantly, the endangering of friendships. This “polyvocality” links a whole variety of imaginings and beliefs about law: we have contradictorily, to borrow the single word from German – *Rechtsgefühl* – to evoke this sense of justice.

In this mix of imaginaries and affective dispositions, we also find actors (ourselves included) occupying more than one position. For example, Kirk and Busby describe people starting out from a desire to pursue justice yet “generally clients were pragmatic about modifying, or monetarising their sense of recompense”. Is this the “polyvocality and overlapping cohesiveness”, the “contradictory rendering of experience”, where people both desire justice but accepting its transmutation into limited gains? Is it the difference between these, the processes, or events, in the interstices that produce law as a hegemonic domain? Here Ranasinghe gives us a separate response: it is precisely the *uniformity* of law, its insistence upon clarity of orders, that necessitates and enables these beyond/shadow spaces. Here structure

is taken in an extreme sense, in order to imagine a deeply unstructured beyond – or, processes of unstructuring. So, what happens if we think about the private ordering of law? From this starting point we see not the profusion or permeation of law, but the formation of spaces beyond law; differentiation, rather than equivalence. It is not simply a case of existing resemblances between zones, but rather a pushing against a formal law.

Our purpose here is not to resolve these questions, but to indicate the range of ways in which the law is both conceptualised and imagined, in theory and in practice. Such diverse imaginaries, however, indicate the pressing concern with marking, maintaining and modifying the boundaries of law. All of the papers collected here take up that issue, drawing on a range of spatial concepts and metaphors to explore the limits of law. For example, Kirwan explores the “delegalised space” of advice networks, while Ranasinghe examines the question of private ordering beyond the law. Lisa Wintersteiger and Tara Mulqueen address ways in which law might be “decentered”, while Devyani Prabhat and Jessica Hambly’s article considers the “margins” of the legal profession. These terms make visible the centrality of the question of the borders or boundaries of law – and the work that goes on at them.

2. Working the Boundaries of Law

2.1. Boundaries as orderings

Borders and boundaries are fundamental features of social life: they provide a means of ordering the chaotic flow of social life and enable people and things to be named, categorised and placed. As Rajaram and Soguk (2006, 367) suggest: “The boundarying of a piece of space and its internal ordering rest on acts of exclusion, differentiation, and identification”. Practices of what van Houtum *et al.* (2004) call “b/ordering” are crucial to the identification and control of social spaces. While the process may be generic, the placings, the namings, the practices of ordering and the social forces that are engaged by them are always specific. As a result, the acts of naming/categorizing that demarcate spaces are always both particular and temporary. The work of “fixing” things is always an effort made in the face of other possibilities (drawing the border elsewhere; drawing a different sort of boundary). So the boundary fixes things, describes what belongs inside – and what belongs outside. Law is demarcated in this way and involves many specific practices of boundary maintenance, for example, the rules of evidence that prescribe what can count as evidence in a specific jurisdiction. Once such borders are constructed, they bring with them a range of practices of policing or governing: keeping things in their place is a recurring practice. Such policing activities also aim to govern legitimate or authorised crossings, permitting or enabling the right sorts of things or people to pass across a boundary, while containing or excluding the wrong sorts.

For those involved in the delivery of advice, the law/not-law boundary is a critical feature because most forms of advice-giving will engage law in some way. What counts as law is both vitally important and is negotiated in complex ways in practice, but here we see critical differences of approach to what counts as law depending on jurisdiction. In the USA,² non-lawyers have in general been prohibited from “practicing law” under the “unauthorised practice of law” (UPL) regime. Definitions of practicing law and the unauthorised practice vary across states and are established by court rule and statute, case law and advisory opinions (American Bar Association 2015). Almost all states have legislation which prohibits the practice of law by non-lawyers, some without defining law, others by defining law as “what lawyers do”; some list specified activities, although often with the inclusion of a broad “catch-all” clause (Rhode and Ricca 2014).

² This section draws upon the paper *Regulation of law beyond lawyers* prepared by Alison Kite for the colloquium.

In the UK, these boundaries are set up and policed differently: the involvement of formal law in shaping the boundary between legal and non-legal has been less clear-cut than in the US because there has been no blanket prohibition such as the “unauthorised practice of law”. This means that non-lawyers, such as advisers in advice organisations, can give advice about areas of law, leaving open the question of whether they will be subject to regulation. The Legal Services Act 2007 brought in (for England and Wales) a single supervisory Legal Services Board to oversee the existing approved regulators in the legal services market. The Act defined (possibly for the first time in legislation in England and Wales) *legal activity* but again this is somewhat circular: legal activities are those which are “reserved” or “any other activity which consists of (...) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes [and/or] the provision of representation in connection with any matter concerning the application of law or any form of resolution of legal disputes”. The implication of this for the work of advice organisations in the UK is that they will be subject to controls if (i) they are involved in giving advice on immigration (a reserved activity which is tightly controlled); (ii) they are funded through Legal Aid (which is now highly unlikely since the cuts to Legal Aid in 2012) in which case they will be subject to audit and monitoring, but only for those activities funded by legal aid; or (iii) if the advice-giver is a solicitor, in which case they are subject to the control of the Solicitors’ Regulation Authority (SRA). One of the strange things about the legal/non-legal boundary is that The Law both forms one side of the boundary and acts as the authorising power that defines the boundary. Our interest in borders and boundaries is because this is where disputes break out that have the potential for reshaping law, disputes about what the boundary is there for (to protect the legal profession, or to define what is possible in terms of rights?) and about who should be policing the boundary. Traces of such border disputes can be seen in Bronwen Morgan’s paper, where we can see efforts to free both people and practices from the rule of law; and in Prashan Ranasinghe’s, which explores the possibility of ordering social life *beyond* law.

Perhaps the next question we need to ask is **why are these specific boundaries created, maintained and policed?** Here we can get insights into the power relations that are in operation at boundaries: there are several rationales for policing the boundaries of law – one is about keeping people out, ensuring that the legal profession keeps control of who can *do* law; another is about allowing people in, opening up the space of law for all; a third is a rationale of risk and protecting vulnerable people. Nicholas Blomley suggests another way of thinking about how law sets up and maintains its boundaries through the concept of “bracketing” (Blomley 2014). He draws on variants of Actor Network Theory to trace how law may work by defining what is included in the gaze of law, excluding other objects and relations as “not legal”. He argues that:

Bracketing, as I define it, entails the attempt to stabilize and fix a boundary within which interactions take place more or less independently of their surrounding context. That which is designated as inside the boundary must be, in some senses, disentangled from that identified as outside (...). Bracketing, in this broad sense, is a ubiquitous and seemingly inescapable dimension of experience and perception. It entails complex and subtle calculations that govern what is, and what is not, to be included within a particular setting. (Blomley 2014, 135-136)

As a result, we can think of the reach of law as constituted by two linked practices. In one, the claims of law to “the right to bracket” have to be established (against other would-be authorities, such as the arbitrary power of rulers or bodies of religion). This is what Blomley calls the “foundational sense of bracketing” – and what we would term the *boundary-making work of law*. In the second, the claims of law to be able to bracket specific objects, persons, relationships, etc. as *legal* (that is subject to the purview of law and legal practices) takes place within this larger frame. Here specific practices claim the legal-ness of particular things – or deny them, as in the “delegalised” spaces emerging in UK family law discussed in Samuel Kirwan’s paper.

2.2. Boundaries as contact zones

Mary Louise Pratt has offered the idea of “contact zones” as a way of thinking about sites of colonial translation: “social spaces where cultures meet, clash, and grapple with each other, often in contexts of highly asymmetrical relations of power, such as colonialism, slavery, or their aftermaths as they are lived out in many parts of the world today” (Pratt 1991, 34). This is a significant addition to the analysis of practices of translation within asymmetric relationships – highlighting the moments of contact in which things might be translated from one “culture” to another. Pratt argues these are moments that are both pre-structured (formed out of highly asymmetrical relations of power), yet unpredictable in their outcomes:

[a] contact zone is an attempt to invoke the spatial and temporary co-presence of subjects previously separated by geographical and historical disjunctures, and whose trajectories now intersect. By using the term *contact*, I aim to foreground the interactive, improvisational dimensions of colonial encounters so easily ignored or suppressed by diffusionist accounts of conquest and domination. (Pratt 1991, 7)

While we can expect the asymmetries of power in such relations to create tendencies towards the reproduction of domination and subordination, Pratt stresses that they do not guarantee it. In the moment of contact, other possibilities emerge. These possibilities might not be realized. Indeed, they might indeed be repressed, ignored or reworked back into familiar patterns. But the particular consequences of a moment of contact and translation are necessarily unknowable in advance.

This understanding of contact evokes a complex view of borders and boundaries. They are certainly powerful demarcations, but are continually being traversed and worked on. At the same time, they are always at risk of being erased, redefined or reinscribed. Neither contact nor translation are simple processes of exchange or equivalence: the act of moving across a border or beyond a boundary is always entangled with the “asymmetric relations of power” that Pratt foregrounds, but such movement takes place in ways that both assume and bring into question the naturalness, stability or desirability of the particular borders and the distinctions that they mark (see, for example, Rajaram and Grundy-Warr 2007 Kramsch 2010).

The boundaries of law are not equivalent to territorial borders (in many respects), but they do generate a multiplicity of contact zones, a whole substructure of agents charged with managing the processes, as well as a proliferation of *guide books* to assist with the experience of contact. Such guides range from *how-to* manuals and rights booklets through to fictional representations of legal worlds and their others (in which moments of contact are often dramatized). But exploring the contact zones between the law and its others seems a potentially highly productive way of thinking about *working the boundaries*. In particular, advice work looks like a distinctive type of contact zone – sites in which *ordinary people* are drawn into contact with the law, have it translated to them, and have their lives (or aspects of their lives) translated into legal framings. But advice work – in the Citizens Advice sense, at least – is not quite the border itself. It feels more like outreach work in which people are prepared for the (potential) contact. As a result, it has a more ambiguous quality – one that requires a different view of the border.

In our own research (e.g., McDermont and Kirk in this collection) we can see advice work as a contact zone: people come into contact with law often by accident, through happenstance – a dispute at work leads to the loss of a job leads to debt, rent arrears threat of eviction and so people arrive at the door of the advice agency. Then the idea of contact, of touching, is crucial: in the UK, the Netherlands and other places, technological developments are leading to policy makers assuming that law can be done virtually, the internet as the site of translation. But for the advisers we interviewed the face to face interview was crucial in being able to untangle that web that might mean that looking at the possible legal actions arising from their client's dispute at work is just as important as focusing on a threatened eviction from their home.

2.3. *Boundaries as liminal spaces*

Conventionally, borders and boundaries have been understood as lines, demarcating (more or less clearly) insides and outsides. This is certainly the territorial imagery associated with nation-state boundaries (enacted as walls, fences, etc.). It has been borrowed to describe the edges of organizations and social institutions – such as *the boundaries of law*. But recent work in border studies treats borders not as a line but as a distinctive space or zone. Borders have come to be seen as the space between two entities, rather than the line that divides them – a *third space* or *liminal space* in which distinctive social relations, practices, forms of work and action take place (see, for example, Newman 2013 on the forms and gendering of border work). Borders are, in this view, places where things happen – and may develop their own local social ecologies in which border policing meets varieties of border crossings (legal and illegal), where unpredictable contacts, exchanges and translations happen, and where many forms of work develop to manage, exploit and survive the border conditions. So border towns develop distinctive economies and cultures, while border regions become sites of conflict, negotiation and exchange. In addition, borders themselves may be *mobile* and create new possibilities of exploitation, conflict and development (see for example Fourny 2014, on the Alpine region as mobile border). As van Houtum *et al.* argue:

B/ordering practices have also changed their character and effectiveness. In this process, new kinds of actors appear, and their inventive performances reveal tactics, strategies and rationales that burst asunder previously fixed and taken-for-granted boundaries. (van Houtum *et al.* 2004, 2)

So, is there an analogy between territorial borders and social boundaries that might help us to think about how the boundaries of law are worked? These approaches to border studies (or what Rajaram and Grundy-Warr (2007) call the study of “borderscapes”) point to a terrain or a scene that is multiply inhabited and filled with “inventive performances”. The boundaries of the law might be described in such terms – the official lines and agents charged with their enactment complemented by diverse agents, agencies and practices. This implies looking for the less formal performances, the quasi-legal practices, and the multiple contact zones in which the law is in translation. Again, advice work – and advice agencies – might be seen as part of how that boundary is worked on and as part of the landscape or ecology of the boundary (see Czarniawska and Mazza 2003 on consultancy as a liminal practice). To borrow a different spatial conceptualization, advice work takes place in the “margins” of the law (Das and Poole 2004).

Our final point here is that the borders and boundaries of law are neither universal nor stable. They are constructed differently in different jurisdictions and are subject to contestation and revision. In the UK, for example, the legal profession has faced a range of threats: a rise of Litigants in Person (LiPs) acting without legal representation in courts and tribunals because of the drastically reduced access to legal aid; the rise of other professional groups who wish to enter the legal field as accepted actors (for example, accountancy and consulting firms); and a variety of conflicts around the role of law in regulating social relations (see, for example, a number of high profile cases in the UK challenging the so-called gig economy, involving Uber, Pimlico Plumbers, and cycle couriers). Such developments, by no means confined to the UK, bring us to the question of boundary work – and the forms that it takes.

3. Working the boundaries

3.1. *Boundaries and the work of translation*

One of the key social practices associated with borders/boundaries is the work of translation. Translation renders things meaningful, creates equivalences and enables practices across boundaries. It is also a deeply politicised process that is concerned

with “the building, transforming or disrupting of power relations” (Sakai 2006, 71-72). Meaning, power and politics are always deeply intertwined. Richard Freeman (from the consultation paper *Research, practice and the idea of translation* [2004], 2009) argues that the concept of translation provides two important insights (in his case, into the policy process). First, translation highlights the constructed and communicative character of policy: policy exists and acts through language. It is both discursive and performative. Second, translation identifies policy as emerging through processes of representation and association:

what we call *translation*, or the replacing of terms in one language with those in another, is also a substitution of one set of relationships or associations with another. These may be similar to the original but can never be identical. To translate, therefore, is to make new associations, to reassociate or perhaps to reassign. (Freeman 2004)

The boundaries of law do indeed look like a site of translation, where the law is translated into other languages, vocabularies and repertoires of sense-making so that others may comprehend it, and where lives, relationships, practices and events are translated into law to so that they may be authoritatively acted upon (McDermont 2013). But while translation works both ways, it is always a process in which power and authority are reassembled and enacted. In these legal translations, the law (and its agents) are made authoritative as others become legal subjects (or at least subject to the law).

For postcolonial scholars, translation has emerged as a central concept – and is understood and used both literally and metaphorically. Translation highlights the power relationships suffusing linguistic and geographical-cultural translation that produces the often violent restructuring of the worlds of the colonised (including the concepts, images, words and practices and the relations they represent). But translation has multiple meanings in postcolonial studies. It refers to the process of *re-ordering* that renders the colonised more comprehensible and manageable to their masters (Kibberd 1995). Colonial powers both accumulate knowledge of the *local* and translate that knowledge into the ways of seeing, hearing and knowing that enact colonial rule (see, for example, Mitchell 1991/1988, on colonial ways of seeing). Colonial rule also instructs colonial subjects about how to understand themselves. There are helpful possibilities here for thinking about the work of translation at the boundaries of law. So, for example, Wintersteiger and Mulqueen are concerned with the ambiguities inherent in the translation practices of public legal education (PLE): whilst PLE can support access to justice it risks both responsabilising those in need of support and obscuring other (non-legal) routes to resolving disputes or problems.

For some, these practices of translation are seen as merely a matter of applying a set of rules to diverse instances, rendering them actionable (the legalists), but for others it is about applying a set of values and rules in which front-line officials (Lipsky’s street-level bureaucrats, 1982) actively *interpret* the circumstances using what they perceive as their *margin of appreciation* (to use a term from EU law). So, the policing of boundaries is not simply technocratic following of rules but allows for understandings of *justice* and *fairness*, the moral evaluation of actors, rights and wrongs and the identification of legal *relevance*.

3.2. Relational labours

Bronwen Morgan’s paper draws productively on Zelizer’s view of relational work as “the creative effort people make establishing, maintaining, negotiating, transforming and terminating interpersonal relations” (Zelizer 2012, 8). This brings into view a set of labours that overrun conventional sectoral boundaries. These are practices which may be increasingly visible in the economic fields of production, exchange and consumption, but they are equally salient in other domains – domestic settings, care work (paid and unpaid), social movements and, of course, much of the voluntary sector. Deborah James and Alice Forbes’s advice organisations appear to be engaged

in relational labour as they try to construct and maintain (and even dissolve) alliances and partnerships. This might make us wonder whether this type of labour is always entwined with something else (partnership making, advice giving, contracting, providing a service), or does it exist by itself?

How does the idea of doing relational labour help us to think about work – and the workers – at the margins of law? There is a self-consciousness of relational labour – if we know we are performing relational labour, how do we feel about ourselves? Does it evoke a certain moral ambiguity? Or does it enable us – as Andrea Muehlebach's volunteers involved in caring work in Northern Italy's increasingly voluntaristic system of welfare do – to distinguish ourselves from others? She argues that:

Volunteers thus performed two kinds of labor – relational labor on the one hand, and the labor of policing a newly emergent, highly conflicted, and precarious division of labor (between free and paid labor, between love and professional service) on the other. (Muehlebach 2012, 208)

This second labour enabled volunteers to distinguish themselves from paid carers (care often performed by migrant workers). In this distinction they saw paid carers as performing material, rather than relational labour. In this distinction, they treated relational labour as a marker of moral superiority. We might ask to what extent is relational labour emotional labour? The papers point (unevenly) to questions of emotion and affect around encounters with the law. Nevertheless, emotion and affect are conventionally hidden in the shadows of the law – precisely overshadowed by the presumption of legal rationality as a mode of thinking and acting. After all, to be the victim of emotion is one important way of falling short of being the ideal, self-possessed, juridical subject. One effect of this is the distrust or even denial of those states of mind typically described in the negative: irrational, emotional or even unreasonable are disorderly conditions.

There are important affective conditions evoked in the papers – particularly in Morag McDermont and Eleanor Kirk's, where they identify "legal anxiety" and "fear of the law" as important dynamics in the field of advice giving. This links back to our imaginaries of law - the consequences of these reactions should not be underestimated, not least as significant hegemonic affects. They condition relationships with, and approaches to (or distance from), law in important ways, posing important and difficult challenges to be negotiated in the practices of translating at the boundaries of law. There is a strange echo in Bronwen Morgan's respondents' "frustrated anxiety" about/with law (do you have to have it?), and even the interesting inversion in the desire to get "legal gobbledygook out of the documents". The issue of emotion/affect (without going into the lengthy debates about the difference between the two terms) is given a different twist in Samuel Kirwan's paper which raises the question of how relational labour is conducted "at a distance" by digital subjects interacting in the "de-legalised space" of peer to peer advice processes.

This raises the question of whether *relational labour* is enough to describe what is going on in these processes. Looking across the papers in this collection reveals an interesting array of terms used to describe the practices or labours that are in play in these sites: *translation, negotiation, brokering, (inter)mediation, assembling, relational labour, emotional labour*, to name a few. Does it make any difference which term is chosen (or which meaning is attached to the term)? The first four concepts (translation, negotiation, brokering and mediation) have tended to be associated with types of transformative practice across boundaries (linguistic, cultural, institutional, etc.). They have sometimes been associated with questions of power and difference – rather than assuming equivalence between the different domains being negotiated. So the encounter between the advice-seeker, the adviser and law (as a site of translation or brokering) involves structured differentials of power that 'suffuse' the possibilities and practices. The papers attempt to tease out the implications of

translation, brokering, mediation and negotiation as ways of grasping the practices (of advice giving especially). They may cast the actors, types of agency, domains being connected and forms of power in rather different ways. In particular, naming the specific practice as translation, brokering or mediation emphasises different aspects of what is being done.

So these papers fundamentally raise questions of power in two senses. First, how might we be able to delineate more carefully the forms and flows of power that suffuse particular sites and settings (rather than power-in-general)? So how do forms of legal and ethical authority operate, co-exist, collaborate and conflict in these settings? In whom are they embodied (since social relations are themselves structured by differentiating forms of power)? What forms and flows of power enable practices of resistance and recalcitrance or ways of “borrowing, bending and blending” (Pennycook 2007, 47) that make a difference. This points to Bronwen Morgan’s happy borrowing of Huisig and Silbey’s idea of “sociological citizens” who are “pragmatic, experimental and adaptive”, rather than the ideological or cultural dupes of so much sociological theory. How do people (individually and collectively) come to exploit the *wriggle room* of social arrangements to think and act differently? What are the spaces, conditions and tensions that produce such possibilities? How do people come to occupy and act on them?

3.3. *Practices and strategies at the boundaries of law*

Many of the papers at the colloquium documented processes of **critical pedagogy** that hover on the edge of the giving of professional or proper legal advice, but constantly pull back from doing so – in the process working on the borders between information, interpretation, application to specific situations, actual advice, and a dispositive decision/clear recommendation. For example, Wintersteiger and Mulqueen’s paper explores the decentering of law through processes that “public legal education can foster a consideration of how to strategically engage with law, and one which does not presume that legal problems always require legal solutions” in ways that create awareness of legal systems and how to engage with them in ways that make space for other normative orderings.

Another interesting point of difference between the projects documented here is the extent to which pedagogical practices are self-consciously attempting to develop legal strategies for collective action. Devyani Prabhat and Jessica Hambly’s paper has more emphasis on the acquisition of legal knowledge, the collection of facts (evidence for best interests), and the reduction of cost barriers as key issues affecting agency. There, the collective dimension seems more embedded in various professional partnerships – between non-lawyers, lawyers, and community organisations. In contrast are the proposals such as Legal Access Trusts (which Janelle Orsi brought into our discussions at the colloquium; see Orsi 2016) that aim to provide legal support specifically targeted at collaborative responses to forging livelihoods that respond better to economic and environmental crises than individualised strategies of people at the margins. In the context of Citizens Advice in the UK, there is a sense that the relationship is an individualised one between client and adviser, and yet the organisation aims also to use the data collected from multiple advice relationships to intervene at a collective level in social policy debates (for examples, see Citizens Advice 2017).

Some of the papers document projects that directly engage with the perception of **legal need**. Some, such as Citizens Advice and university-run law clinics, add different actors to the legal field who will amplify the voice of the under-represented; others (again we think of Janelle Orsi’s Legal Access Trusts) look to develop different organisational and institutional frameworks for access to justice, a reimagining of the structural field of law.

Prabhat and Hambly’s paper raises the question as to whether creative legal action a luxury for the well-off? They speak of how the artificial constraints on discretion and

the failure of immigration officials to follow legal standards in everyday practice “has constrained lawyers to think more like other people who look for creative solutions outside ordinary legal action” – this raises questions as to whether turning to *non-legal* means is necessarily opting for a *second best*. As the papers by Kirk and Busby and McDermont and Kirk demonstrate, the managers at Citizens Advice would say “no”: their ability to negotiate means that they can have success in striking deals with their client’s employers which lead to positive results. Collectively, then, the articles here demonstrate the rich variety of practices involved in working the boundaries of law.

4. The Articles

The articles included in this special issue have inspired and shaped the thoughts of this introduction; in this section we introduce them to the reader more systematically. **James and Forbess** consider the impact of austerity policies on the world of advice giving in the margins of the law. They reveal the complex demands that the mixture of financial cuts and new contracting demands place on not for profit organizations that seek to help people negotiate the boundaries of law. **Kirk and Busby** examine the very particular boundary of law formed by Employment Tribunals in the UK: a supposedly accessible legal setting in which individuals seek redress and justice, but which has become increasingly legalised in recent years and where access to justice is increasingly problematic. **Kirwan** finds a third setting in which people are finding ways to negotiate the borders of law – online peer to peer advice and support. The shrinking access to legal processes and legal support mean the emergence of a delegatised space in which relationships might be resolved. **McDermont and Kirk** address the question of legality in the context of Citizens Advice, as advice workers try to negotiate the boundaries of law, bringing other skills and dispositions to bear on people’s problems. **Morgan’s** article examines the contestations of law and legal identities emerging in innovative organisations seeking to build sustainable economies. Such organisations require legal characteristics, but become the site of emergent adaptations of both law and legal professionals. **Prabhat and Hambly** find the boundaries of law being worked within the legal profession itself, among immigration lawyers working in the margins of law on legal claims around nationality. **Ranasinghe** addresses another side of law, considering the practices of private ordering which do not (explicitly) rely upon the law or formal (legal) means of dispute resolution; he argues that a space must be created for forms of physical violence if law is not to be reduced to tyranny. **Wintersteiger and Mulqueen** address public legal education as a practice through which law may be decentred. They suggest that the critical pedagogical potential of legal education can de-naturalise law and its rule, making its boundaries more permeable and contestable.

5. Beyond the boundary? Law and its Others

Socio-legal scholarship has tended towards an expansive view of Law and its reach. Legal Consciousness scholarship examines law’s domination of, or hegemony over, social life (e.g., Ewick and Silbey 1998). In contrast, legal pluralism tends towards a view of the proliferation of forms of legality but which still speaks to the centrality of law-like principles and practices in the conduct of social life (Merry 1988). Here we have tried to develop a rather different conception of law – one that stresses its borders and boundaries, and one that implies that there are other relations, dynamics and practices that take place beyond those boundaries. Certainly, our central focus has been on law but with the aim of seeing how it is both bounded and decentred in multiple ways. Sometimes, this is work overshadowed by law, or work *in the margins*. At other times, we have stressed borders and boundaries as sites of intense activity – the relational labours of negotiation, brokering, translation, partnering and co-production. But in these articles, it is also possible to see *beyond the boundary* to the other social relations and practices through which the problems, troubles and crises of social life are negotiated otherwise. Both the ideas of “private ordering”

(Ranasinghe) and “delegalised space” (Kirwan) point to these domains beyond Law, while one of Morgan’s interviewees expresses the recurring frustration about law: “do you **have** to have it?” We hope this collection demonstrates the significance of boundaries, the value of attending to boundary work, and the importance of what might lie beyond the boundary.

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