GENERAL PLAN

We realized that a great and noble event happened in our time. It is an event as admirable as all the other great events before us—the rule of our lord, king don Alfonso, who exceeded all other wise kings in wisdom, intelligence, and understanding, in law, goodness, piety, and nobility. For this reason, we decided to establish, as the beginning of a new era, the year in which this king began his rule, so that this era can be known and used in the same way the other eras before this one have been known and used, so that the name of this king lasts forever. And we decided that 1252 would be the beginning of this era. And we called it the Alfonsine Era. (Yehudah ben Mosheh ha-Kohen and Rabbi Zag Yitzhaq ben Said, Alfonsine Tables)

My speech in the present Treatise is directed... to one who has philosophized and has knowledge of the true sciences, but believes at the same time in the matters pertaining to the Law and is perplexed as to their meaning because of the uncertain terms and parables. (Maimonides, Guide for the Perplexed)
1. **INTRODUCTION: PERPLEXING LEGISLATION.**

This chapter doubles as general introduction. It offers important contextual elements to explain the legal corpus addressed in the book, and how it fits within the system of cultural and political periodization called “the Alfonssine Era,” created by Jewish and Muslim astronomers and astrologers working for King Alfonso X (b. 1223-d. 1284; r. 1252-1282). This book focuses on one of the many intellectual workshops promoted by Alfonso—the one devoted to legal research and legal codification. This workshop gave birth to many different pieces of legislation, but the most important and lasting one is the *Siete Partidas* or *Seven Parts*. The content of this legislation, before even it became enforced, contributed to the dethronement of Alfonso. However, the *Siete Partidas* became eventually enforced and pervaded Iberian empires across the centuries—the different kingdoms in the Iberian Peninsula, the African expansion, the American expansion, the Global Empire, etc. They were translated in Portuguese, Catalan, Latin, and English, and disseminated by global printing presses. They still have force of law in many US states, in several American countries, in the Caribbean, and in Philippines, and they are still used in contemporary legislation (for instance, as recently as February 27, 2015, when Spanish legislators used the Fifth Partida to create the rationale for the law on corporate personhood and the limitation of responsibilities for individuals who have participated as owners in a corporation that has filed for bankruptcy). This chapter explains all this history, explores relevant archival evidence, and discusses the different editions of and marginal commentaries on the *Siete Partidas* across the “Alfonssine Era.”

This chapter presents the project I call *dead voice*. Dead voice is the legal institution regulating the process of writing and codifying the law. This legal institution is, in turn, governed by a *fictio legis* (a notion I will always refer to in Latin, as translating it as “legal fiction” is misleading). According to this *fictio legis*, all aspects of legal writing (jurisprudence, documentation, and norms, essentially) are always new at the moment they are invoked—even if they belong to the past. In other words, dead voice is not only about legal writing and codification, but also about time-bending, about the institution of a legal temporality. This chapter only presents the problem of dead voice, deferring close analysis for the next chapter.
Now, dead voice, for Alfonso’s legal workshop, is more complex: it establishes a new legislative technique that I call, following a series of concepts whose genealogy belong to a long Mediterranean debate about law and philosophy, perplexing legislation. This chapter section delves a bit more in depth into the concept of perplexity. The concept was used by Maimonides (ḥira is the Arabic word he used) in order to supersede the debates on legal and philosophical incoherence taking place in Persia, Iraq, and Al-Andalus between the 10th and the 12th centuries: it is perplexing—as Maimonides puts it—that one cannot avoid philosophizing and interpreting fictional devices when one is reading the law. The concept was also used in scholastic thought to talk about moral dilemmas in theology, ethics, and the law (Leibniz would write his JD dissertation about the Casus perplexus). What I call perplexing legislation takes the combination of law, philosophy and fiction beyond exegetical or interpretive stances: for Alfonso’s legal workshop, even the process of legislation requires the incorporation of philosophical corpora and philosophical discussion, as well as the incorporation of fictional devices. Alfonsine dead voice is, fundamentally, a perplexing legislation.

Finally, this chapter presents some of the central theoretical concepts and lines of inquiry explored in the book.

2. Dead Voice.

This chapter examines the legislation on dead voice: the creation of the very concept of dead voice in the Third Partida, to refer to legal writing, and how it is governed by the fictio legis establishing legal temporality—the permanent newness of all dead voice (that is, of norms, jurisprudence, and documentation). Dead voice, as this chapter argues, is about the creation of notarial languages and materialities of law and documentation, which have the purpose of establishing a system of communication between jurisdictional powers and a new kind of subject configured by the practice of dead voice itself: the juridical subject or persona ficta.

To demonstrate this, this chapter examines the complex body of legislation on legal writing, and how it relates to the germane institution of living voice—that was born in early Greek biblical philology. Before becoming legislated in the Third Partida, living voice was already a legal institution favored by Canon Law, many civil legal scholars, and the smaller legal communities across the Mediterranean. Living voice was frequently interpreted from the
perspective of orality and oral law, but the introduction of dead voice changed this balance, and made the simple division of orality and writing impossible. The institution of dead voice functions by creating a juridical person who does not necessarily coincide with the biological lives of private individuals.

3. VERNACULAR JURISDICTIONS, EMPRICAL SOVEREIGNTIES.

The debates on jurisdiction and sovereignty in Medieval Europe have been, for centuries, a debate about imperial and papal concepts of sovereignty. This debate kept several generations of legal scholars and historians busy. At stake was, from different perspectives, the preeminence of a “common European legal past” –in the expression of Manlio Bellomo. This position became all the more central after WWII and the different processes of constructing a European Union. This common legal past is none other than the *ius commune*—that is, the combination of Roman Civil Law (and its Medieval and Early Modern system of commentaries and glosses), Medieval Canon Law (idem), and the *iura propria* or local expressions of the law. The first argument presented in this chapter is that this is one of the most powerful extant mythologies in legal history and legal practices in several European countries in the present day. This is a highly Eurocentric mythology that actually cannot work for most of the polities in the Mediterranean—including the Italian and the Iberian Peninsulas.

Though Alfonso X and his legal workshop did understand this myth of the *ius commune*—which was essential for Alfonso’s imperial project—the problems of sovereignty and jurisdiction were much more complex for him: in most of the territories of his kingdom, there were also other legal systems and practices, including, of course, communities of shari’ah (with active muftis, qadis, faqis, and imams), and communities of halakhah (with active rabbis).

This chapter delves into these legal and social problems to argue that dead voice, as a system of codifying and writing a legal code, should be considered a project to create what this chapter calls a “vernacular jurisdiction,” in which the vernacular legal language becomes a means for repopulating and colonizing those other legal spaces—by using, as well some of their vernacular institutions, that needed to be translated to the new legislation. Dead voice represents—indeed, addresses—a series of translation problems that involve the creation of a legal language in which *ius commune* institutions and some Arabic and Jewish legal
institutions establish a productive legal model that universalizes the Spanish language and its particular system of perplexing legislation.

4. **Revenant Manuscripts, Legal Thinking.**

The expression “dead voice” is a metaphor. In the legislative corpus under examination, it is a metaphor in the second degree, based on the metaphor of living voice. Following the steps of this metaphor, this chapter proposes the metaphor of “revenant manuscripts” to address the negotiations and exchanges that take place around concrete pieces of dead voice—that is, how the governing fiction of dead voice (its radical and permanent newness) comes about in specific political and legal circumstances.

By examining legislation, archival documentation, notarial formularies, and poetic texts, this chapter argues that by means of revenant manuscripts, dead voice fosters “legal thinking”—a notion defined in this chapter—across the vernacular jurisdiction.

5. **Legisitating Friendship.** [*see chapter draft attached*]

6. **Sensitive Souls and Legal Aesthetics.**

The previous chapter considered some of the challenges of dead voice as perplexing legislation, by examining the articulation of a philosophical corpus and a series of fictional devices in the process of legisitating friendship. Embracing perplexity does not only mean to interpret the law by philosophizing and interpreting tropological devices—as proposed by Maimonides and other intellectuals—but also taking the challenge one step farther, that is, legisitating with philosophy and fictional devices and their interpretation. It also focused on how this perplexing legislation is particularly interested in affects and emotions, and, in particular, the multifaceted consequences of the concept of love in relation to what the chapter calls the “fiction of naturality”, created by Alfonso’s *Fourth Partida* and that became the theoretical center of the whole legal science.

This chapter examines the legislation on the political and legal responsibilities of the “people.” This legislation redefines the notion of “people”. The legislation create a new concept that goes against what the law itself considers the common understanding of the word “people”, and furthermore reinterprets the people’s responsibilities through the lens of the philosophical corpus of Aristotelian aesthetics. In this sense, the people are redefined as the “sensitive soul” of the kingdom. As the chapter demonstrates, this redefinition of the
people calls for a pervasiveness of legal thinking as legal aesthetics, suggesting that the people—all juridical persons—have the responsibility to “sense,” to “feel,” and therefore to “think about” all their experiences legally. The chapter reviews the laws on this subject, focusing in particular on the question of legal memory, which includes remembering dead voice at the level of norms and documentation, as a responsibility of the people.

7. THE AESTHETICS OF JUSTICE.

The previous chapter focused, above all, on the articulation of a philosophical corpus in order to create a narrative about the people’s political and legal responsibilities. This chapter focuses on another aesthetic regime of the law: the one based on tropology and fictional devices. This chapter proposes an approach to an aesthetics of justice based on the tropology of justice created at the beginning of the Third Partida. This aesthetics of justice exploits fictional devices to inscribe political theories in the law. This chapter demonstrates this point by exploring the legal conceptualization of freedom.

CONCLUSION.

ACKNOWLEDGMENTS.