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## LITERATURE AS A MODE OF THOUGHT: DERRIDA'S INSTITUTION OF *DIFFÉRANCE*

**ABSTRACT:**

In this article, I argue that literature represents a privileged modality for thinking institutionality in Derrida's work and, moreover, that literature represents a model for institutions. The first section presents Derrida's understanding of literature as anti-essentialist and a mode of experience which resists the transcendence of identity. In the second section, I propose that literature attends to its own fragility, lacking any definite foundation or external referent. I then consider the political implications of this position, demonstrating that literature not only encourages us to attend to its own fragile foundations, but also the foundations of socio-political institutions in general. It achieves this attention through its specific relationship to performative language. In the fourth section, I argue that literature reveals institutions as an effect of *différance*; rather than understanding *différance* as an infinite delay, institutions emerge in the process of *différance*. Literature underscores the inescapability of institutions. Our aim, as Derrida stresses, should not be to do away with institutions, but to form a new relation to institutions. I conclude by outlining some of these implications for literature as an institution which can serve as a model for the new relation to institutionality that Derrida valorises.

**KEYWORDS**

Literature, Derrida,  
Institution, Thought,  
Experience,  
Performative,  
Anti-Foundationalism

### Introduction

It is an institution which tends to overflow the institution. (Derrida 1992: 36)

Literature might seem like an odd place to think about institutions. After all, institutions are a serious business and literature can be indulgent, whimsical and, worse still, fictional. Yet literature has also often had an edge to it: at times, it can be a space for radical transgression, imagination and fantasy. In its very non-seriousness, literature can pass through the censor's filter and obliquely critique society. On the face of it, therefore, the link between institutions and literature needs to be taken seriously. One thinker who does

exactly this is Jacques Derrida. And, as well as helping us think through this link, literature itself can also help us engage with debates around institutions in Derrida's oeuvre. Institutions have begun to receive increased attention in Derrida's work, particularly in thinking through the socio-political aspect of his work.<sup>1</sup> However, literature has remained relatively excluded from these debates. In this article, I will seek to address this gap, proposing that literature represents a privileged modality of thought in Derrida, particularly as a site for thinking institutionality.

I argue that literature represents a privileged modality for thinking institutionality in Derrida's work and, moreover, that literature constitutes a model for institutions. The first section presents Derrida's understanding of literature as anti-essentialist and a mode of experience that resists the transcendence of identity. In the second section, I propose that literature attends to its own fragility, lacking any definite foundation or external referent. I then consider the political implications of this point, with literature not only drawing attention to its own fragile foundations but, through performativity, the fragile foundations of other socio-political institutions. In the fourth section, I argue that literature reveals institutions as an effect of *différance*, as something which takes place in the differing and deferral of meaning. I conclude by considering how literature can serve as a model for a new relationship to institutions.

## Literature as Thought

It may seem odd to present literature as a mode of thought. Indeed, to my knowledge, Derrida never uses such an expression. However, if we look closely at Derrida's references to literature, we see that it is often framed as an alternative to philosophy, particularly as a way of thinking that escapes essentialism. Indeed, in state doctoral (*doctorat d'État*) defence, Derrida places an interest in literature above that of an interest in philosophy:

I have to remind you, somewhat bluntly and simply, that my most constant interest, coming even before my philosophical interest, I would say, if this is possible, was directed toward literature, toward that writing that is called literary. What is literature? (Derrida 2004: 116).

This passage is not the only part of 'Punctuations', where Derrida foregrounds the importance of literature in his work. Indeed, elsewhere in this short text, he offers a brief reflection on his intellectual trajectory, emphasizing how literature has been an object of interest for him since early in his career, with his 1957 MA thesis registered as 'The Ideality of the Literary Object'. What is interesting in the above quotation is not simply that literature is given such a major position in his own work, but that it is given the form of a classically philosophical question: "What is literature?" What is its being and its meaning? If Derrida is interested in literature, therefore, it is not independent from

1 For instance, Ó Fathaigh (2021), Gustafson (2024), and Bojanić and Perunović (2024).

philosophy, but rather as a continuation of thought itself. While this emphasis on literature is important, perhaps the operative phrase here is “if this is possible”: for Derrida, it is impossible to divorce philosophy from literature (and, of course, such a separation is a classic move of the Western philosophical tradition that Derrida wishes to constantly challenge). We can see this, for instance, in his more “experimental” work, like *Glas* or *La carte postale*, as “texts dealing with textuality”, which he foregrounds are “inscribed in a space that one could no longer, that I myself could no longer, identify or classify under the heading of philosophy *or* literature, fiction *or* nonfiction” (Derrida 1992: 124/5). As his “most constant interest”, literature, therefore, has a critical place in Derrida’s *oeuvre*, but one which is also framed through its relation to philosophy.

Derrida takes this link between literature and philosophy further in his work on phenomenology. There, literature is presented as an approach which pushes phenomenology beyond its limits. Reflecting literature’s importance from the earliest stages of his work, Derrida’s master’s thesis took literature as a “very peculiar type of ideal object” and one which “differs from objects of plastic or musical art” that Husserl privileges in his work (Derrida 2004: 116). Moreover, his introduction to Husserl’s *The Origin of Geometry* allowed Derrida to “approach something like the un-thought axiomatics of Husserlian phenomenology”, including “the absolute privilege of the living present” and “a language that could not itself be submitted to the *epoché* [...] even though it made possible all the phenomenological bracketings and parentheses” (Derrida 2004: 118). Literature thus comes to represent the limits of phenomenology, the unthought assumptions that make phenomenology possible, particularly the directness and unmediated nature of language. This is a point that Derrida makes elsewhere, where he stresses that it is literature which breaks apart the language of phenomenology itself:

I believe this phenomenological-type language to be necessary, even if at a certain point it must yield to what, in the situation of writing or reading, and in particular literary writing or reading, puts phenomenology in crisis as well as the very concept of institution or convention (but this would take us too far). (Derrida 1992: 44/5).

In Derrida’s framework, literature functions as a *supplement* to phenomenology: adding something to phenomenology, in helping it better understand experience, but at the same movement threatening the foundations of phenomenology itself. It is for this reason that Derrida maintains that the experience of literature is “a force of provocation to think phenomenality, meaning, object, even being as such, a force which is at least potential, a philosophical *dunamis*” (Derrida 1992: 45/6). In many ways, it is this very philosophical force which Derrida seeks to do justice to in his work.

The philosophical potential of literature is not limited to phenomenology. Part of literature’s importance for phenomenology is its inherent resistance to essentialism and this can be applied to philosophy more broadly. For Derrida, one of the qualities of literature is its lack of identity with itself. In ‘Préjugés:

Before the Law', a reading of Franz Kafka's parable in *The Trial* alongside an interpretation of Jean-François Lyotard, Derrida speaks "of the nonidentity with itself" of the text (Derrida 2018: 62), and, similarly, in 'This Strange Institution Called Literature', he maintains that "Literature 'is' the place or experience of this 'trouble' we also have with the essence of language, with truth and with essence, the language of essence in general" (Derrida 1992: 48). Literature is thus presented as a way of challenging a thinking of ontology which focuses on the essence of things. Of particular importance within this argument is the copula: the relationship between the subject and the predicate. Indeed, Derrida draws on literature to challenge what he labels an "ontological prerogative" (Derrida 2018: 14). He maintains that traditional accounts of judgement assume, or pre-judge, that it is possible to determine a subject and a predicate and that this represents an "ontological prerogative" which implies "a pre-judgment [pré-jugé] that says that, the essence of judgment being to name the essence (S is P), that very essence of judgement is itself accessible only to a judgment that says S is P before any modalization takes place" (Derrida 2018: 14). Literature becomes a site where this ontological prerogative is challenged and where we operate without a certainty of essence, where we can name without first deciding on the who/what of something. And it is this potential confusion between who/what in literature, which challenges the fundamental ontological question of "What is":

If the question of literature obsesses us [...] this is perhaps not because we expect an answer of the type "S is P," "the essence of literature is this or that," but rather because in this century the experience of literature crosses all the "deconstructive" seisms shaking the authority and the pertinence of the question "What is ...?" and all the associated regimes of essence or truth. (Derrida 1992: 48),

As in his engagement with phenomenology, literature thus challenges a fundamental mode of philosophy – the question of essence – and in this respect represents an alternative way of thinking essence or, more precisely, a thought which does not rely on the temptation of essence.

An objection might be raised at this point that Derrida – in emphasizing the anti-essentialist nature of literature – is granting literature itself an essence. And Derrida is alive to this. Indeed, he challenges a movement which would grant "a formal specificity of the literary which would have its own proper essence and truth which would no longer have to be articulated with other theoretical or practical fields" (Derrida 1981: 70). In this respect, we can see that Derrida's insistence on linking philosophy and literature forms part of this effort. Moreover, it is, in fact, our inability to separate the literary and non-literary which can help flesh out the mode of thinking which Derrida associates with literature: one which resists reducing meaning to essence. For Derrida, literature is associated with a non-transcendent experience, one which remains within the text, whereas the non-literary corresponds to the transcendent style. The transcendent approach reduces a text to its meaning and referent (its 'content'), whereas a non-transcendent reading attends to "the signifier, the form, the

language” of literature (Derrida 1992: 44). Very crudely, then, these approaches can map onto a content/form distinction. Yet, what is important here is that there are not some forms of texts which are non-transcendent (literature) and other forms of texts which are transcendent (philosophy), but rather that these are possible readings available to any text: “one can do a nontranscendent reading of any text whatever” (Derrida 1992: 44). There is no text which is entirely resistant to a transcendent reading; in the way that there is no text – even, for instance, the Daily Mail – which can fully reject the non-transcendent reading. However, literature does do something different in its resistance to the transcendent reading “a text is poetico-literary when, through a sort of original negotiation, without annulling either meaning or reference, it does something with this resistance” (Derrida 1992: 47). What sets literature apart is how it relates to this resistance to a focus on ‘content’ and meaning over language and form: “This moment of ‘transcendence’ is irrepressible, but it can be complicated or folded; and it is in this play of foldings that is inscribed the difference between literatures, between the literary and the non-literary, between the different textual types or moments of non-literary texts” (Derrida 1992: 45). This delay to transcendence and the resistance of this folding is how Derrida distinguishes the literary versus the non-literary. It is this resistance to the transcendence of philosophy which literature offers thought and which represents its challenge both to essentialism and to phenomenology.

Literature is fundamentally anti-essentialist on Derrida’s account and, as we will see later, this challenge to simple identity resonates forcefully with other parts of his work, such as *différance*. But we might still want to ask what sort of “thought” literature might function as? The potential for literature as a form of thought has been briefly touched on in the secondary literature. Samuel Weber, in a chapter on the singularity of “literary cognition” raises the possibility that such cognition may be based on the “privileged place for forms of misapprehension” (Weber 2021: 355) in literature (as opposed to other forms of cognition, which focus on communication, intention or calculation). Similarly, Ian Maclachlan, in an important chapter on literature in Derrida, underscores how “Derrida’s work raises questions about what we mean by ‘thinking’” (Maclachlan 2004: 9). What we can add to Weber and Maclachlan’s accounts is already implicit in Derrida’s link between literature and phenomenology: experience. This is one of the most common terms in Derrida’s discussions of literature, regularly speaking of literature as an “experience”. For example, “this also accounts for the philosophical force of these experiences”, “a philosophical dynamis – which can, however, be developed only in response, in the experience of reading” (Derrida 1992: 45/6, emphasis added), or even more explicitly:

literary experience, writing or reading, is a “philosophical” *experience* which is neutralized or neutralizing insofar as it allows one to think the thesis; it is a *nonthetic experience of the thesis*, of belief, of position, of naivety, of what Husserl called the “natural attitude.” (Ibid: 46)

In this respect, if we are to think of literature as a form of thought, it is not cognition in a purely abstract sense, rather it is an experience. This experience of the resistance or folding that comes with a non-transcendental style of reading or writing is an experience, which draws our attention to form and representation; it is a suspension of immediate understanding and of immediately grasping the meaning and in this respect is a “nonthetic experience” of meaning (“the thesis”) itself. We will see shortly some of the points that literary attention tends to direct us to, but for the moment it is worth emphasizing this experiential dimension. It is as an experience – the experience of writing or reading – that we can understand literature as a modality of thought, one which Derrida believes can go beyond the restricted thought of philosophy.

### Literature’s Fragility

If we are to understand the experience of literature as a privileged form of thought, what particular things does it allow us to attend to? In this section, I will propose that literature draws our attention to the lack of secure foundations of institutions and, importantly, it does so by displaying its own fragile foundations.

Before considering this issue of attention, it is worth emphasizing that Derrida has a specific genealogy of literature. And this genealogy underlines the conventional nature of institutions; understanding literature as a “modern invention” (Derrida 1995: 28). Derrida regards literature as an institution, which emerged in the eighteenth-century. He distinguishes literature from “Greek or Latin poetry, non-European discursive works do not, it seems to me, strictly speaking, belong to literature” (Derrida 1992: 40). Homer, therefore, is not part of literature on Derrida’s terms, nor is Rumi nor Luo Guanzhong.<sup>2</sup> This allows us to see that Derrida is working with a very specific understanding of literature. However, in spite of this genealogy, Derrida insists that this does not help us easily identify what literature is:

Having said that, even if a phenomenon called “literature” appeared historically in Europe, at such and such a date, this does not mean that one can identify the literary object in a rigorous way. It doesn’t mean that there is an essence of literature. (Derrida 1992: 41)

So, there is no way to fully delineate the borders of literature, even if the principle emerged in a specific historical period. This point can help explain why Derrida describes literature as an “instituted fiction” (Derrida 1992: 36). Derrida thus foregrounds the conventional status of literature – a product of historical,

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2 While we might be concerned about Eurocentrism in Derrida’s account, we can also see that in excluding ancient Greek and Roman classics, Derrida at least sidesteps crude Eurocentrism. By the same token, the privileging of European modernity is itself a common Eurocentric trope. On Eurocentrism and modernity, among many others, see Walter D. Mignolo (2021).

political and legal events. Yet, at the same time, he stresses that this cannot determine or reduce literature; it cannot grant it an essence or rigorously define it. This is partially a product of Derrida's understanding of literature as an experience, but it is also because of literature's particular relationship to language and reference.

Derrida's conception of reference is highly complex. Though Derrida has often erroneously been understood as denying referentiality – in favour of pure textuality – this is far from the case. Indeed, in his own view, “what I am doing is more referential than most discourses that I call into question” (Derrida 1985: 20). This is so because, for Derrida, the ultimate referent is the wholly other, that which can only be referred to but can never be integrated into a system:

The impossibility of reducing reference, that's what I am trying to say and of reducing the other. What I'm doing is thinking about difference along with thinking about the other. And the other is the hard core of reference. It's exactly what we can't reinsert into interiority, into the homogeneity of some protected place. So thinking about difference is thinking about “ference.” And the irreducibility of “ference” is the other. (Ibid: 20)

We will return to the rich meaning of “ference”, but for the moment it is worth unpacking Derrida's specific understanding of reference. For Derrida, reference and the other go hand-in-hand. Alterity is the “hard core” of reference, exactly that which resists being taken into a system of signification. Indeed, this is what defines the other: “The other is infinitely other because we never have any access to the other *as such*. That is why he/she is the other” (Derrida 1999: 71). Nicole Anderson nicely captures this extreme understanding of alterity, underscoring how “the other is not the possible because it cannot be invented and thus is impossible” (Anderson 2012: 75).<sup>3</sup> Derrida insists on this impossible other, stating that: “Referent, means ‘referring to the other.’ And I think that the ultimate referent is the other. And the other is precisely what can never allow itself to be closed in again within any closure whatsoever” (Derrida 1985: 20). If Derrida considers his work more referential than, say, empiricist approaches, it is because he understands this relation to the other as an ontological and ethical necessity; language thus always refers to the outside of itself and to that which cannot be contained within it.

While this is true for language in general, there is something specific about literature: “the performative character of its relation to the referent” (Derrida 2007: 402). This performative character means that literature makes its referent in the very act of referring. In this respect, the referent is fictional: “literature produces its referent as a fictive or fabulous referent that in itself depends on the possibility of archivization and that in itself is constituted by the act of archivization” (ibid: 400). Literature acknowledges that it has no material existence outside of itself; unlike, say, scientific discourse, literature presents itself as self-contained, so that its reference is to itself alone. This is

3 For more on alterity and its ethical implications, see Anderson (2012).

not to say that other forms of discourse achieve some access to the other, but rather it is the acknowledgement of this fabulous dimension which sets literature apart. As a mode of thought, in its resistance to transcendence, it draws our attention to this movement of reference. This is because, performatively, that which it refers to comes into being only in the act of reference. Literature cannot be divorced from its archive, because it is created through this act of archivization (even in the simple act of being written down). In “producing and then harboring its own referent,” (ibid: 401), literature does not contradict the referent as the other; on the contrary, it displays, in an exemplary fashion, the impossibility of integrating the other:

Literature and literary criticism cannot, finally, speak of anything else. They can have no other ultimate reference; they can only multiply their strategic maneuvers in order to assimilate this unassimilable wholly other. They are nothing but these maneuvers and this diplomatic strategy, with the “double talk” that can never be eliminated there. For simultaneously, this “subject” cannot be a nameable “subject,” nor this “referent” a nameable referent. Capable of speaking only of that, literature cannot help but speak of something else, and invent strategies for speaking of something else, for deferring the encounter with the wholly other (ibid: 403)

With its fictive referent, literature does not reject the other and forms a self-contained system. Rather it consists in this effort to avoid and evade the wholly other: it consists in this deferral and it is this delay which literature puts on show. This can help make sense of the suspension of the referent that Derrida also takes to be the condition of literature: “There is no literature without a suspended relation to meaning and reference. Suspended means suspense, but also dependence, condition, conditionality. In its suspended condition, literature can only exceed itself” (Derrida 1992: 48). In his reading of Kafka, Derrida claims that literature “somehow perturbs the “normal” system of reference, while at the same time revealing an essential structure of referentiality. Obscure revelation of referentiality that no longer makes reference” (Derrida 2018: 66). Literature is not unique, therefore, in being unable to take in the other. As Maclachlan rightly stresses, the literary should not be seen as some special case standing apart from other, ‘ordinary’ uses of language” (Maclachlan 2012: 44). What is unique about literature, however, is that in suspending the ‘normal’ ideas of reference – secured by “an identifiable speaker or writer, addressee or reader, or an empirical referent or context” (Maclachlan 2012: 43) – it displays this structure for us to see. If Derrida privileges high-culture and modernist literature, such as Kafka, it is because this suspension is made more explicit. ‘Before the Law’ represents a parable of the liminal and unclear persecution of the protagonist of *The Trial*: it is thus a fiction within a fiction, without a clear, determinable interpretation. Describing his preference for this type of literature in general, Derrida emphasises “its fragility, its absence of specificity, its absence of object”, and this fragility is articulated in the “act of a literary performativity” (Derrida 1992: 42). Literature allows us to witness



how reference relates to the other, the limits of this relation and its experience as the deferral of ultimate meaning.

It is this lack of reference – and the acknowledgement of this lack – which Derrida takes as the experience of literature. And it is this quality which makes literature fragile:

But given the paradoxical structure of this thing called literature, its beginning *is* its end. It began with a certain relation to its own institutionality, i.e., its fragility, its absence of specificity, its absence of object. The question of its origin was immediately the question of its end. Its history is *constructed* like the ruin of a monument which basically never existed. It is the history of a ruin, the narrative of a memory which produces the event to be told and which will never have been present. (Derrida 1992: 42, emphasis original).

As we have seen in our first section, Derrida emphasises frequently that literature is anti-essential, to the point that it has no essence. We can couple this anti-essentialism with a lack of secure ground: this inability to claim an external referent means that it can have no foundations that are not created by itself performatively. In this respect, it can only construct its history in relation to itself. Importantly, this is not a closed-system, but literature tries (and forever fails) to assimilate the other outside it. What sets literature apart as a modality of thought is that it displays this fragility; it does this through its connection to a non-transcendent reading and to its use of performativity. It is not simply that literature is fragile – a condition perhaps shared with all language – but that it suspends immediate meaning and draws our attention to the performative force of language. For Derrida, this attention represents the experience of literature as a specific mode of thought.

## Literature Against Institutions

Literature, therefore, is not simply an object of thought for Derrida, but also a modality of it. It supplements philosophical thinking in its anti-essentialism and draws our attention, in experience, to the lack of ground in literature as an institution.<sup>4</sup> It is its ability to display its own fragility, its lack of foundations and absence of an external reference which sets literature apart. We can take these points further and now consider how they allow us to think institutionality itself. As we will see, for Derrida, literature does not simply allow us to think literature as an institution, but it also displays the fragility of other socio-political institutions. Let us return to the epigraph we saw in our introduction and expand on it somewhat:

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<sup>4</sup> Derrida, of course, is not the only thinker to consider the relationship between literature, institutions and law. Indeed, within this period, there are two particularly relevant examples in the work of Paul Ricoeur (2003) and Jean-François Lyotard (Lyotard and Thébaud: 2008). Indeed, *Just Gaming* by Lyotard and Thébaud is referenced in Derrida's reading of Kafka.

The law of literature tends, in principle, to defy or lift the law. It therefore allows one to think the essence of the law in the experience of this “everything to say.” It is an institution which tends to overflow the institution. (Derrida 1992: 36)

Here, Derrida makes reference to the defiance or lifting of the “law” which he ties to literature. Importantly, it provides a space to think “the essence” of this law and to do so through this “everything to say”. By “everything to say” (*tout dire*<sup>5</sup>), Derrida means:

this institution of fiction which gives *in principle* the power to say everything (*tout dire*), to break free of the rules, to displace them, and thereby to institute, to invent and even to suspect the traditional difference between nature and institution, nature and conventional law, nature and history. (Derrida 1992: 37, emphasis original)

Literature promises the capacity to say everything or anything, regardless of rules or conventions. It comes to represent a transgressive force, one which pushes beyond any determined boundary or rule. As part of this argument, we see further confirmation of the philosophical force of literature, with literature having the capacity to disrupt established binaries of nature/institution, among others. This ability to “say anything” thus removes any limits on our speaking, writing or thinking. On this account, literature defies the law and allows us to break free of social and political rules.

Indeed, this link between literature and *tout dire* is repeated by Derrida when he seeks to distinguish literature from other forms of poetic or artistic discourse. As we have seen in our previous section, Derrida understands literature as emerging properly in European modernity. He draws on this link to connect literature to modern democracy:

The institution of literature in the West, in its relatively modern form, is linked to an authorization to say everything, and doubtless too to the coming about of the modern idea of democracy. Not that it depends on a democracy in place, but it seems inseparable to me from what calls forth a democracy, in the most open (and doubtless itself to come) sense of democracy. (Derrida 1992: 37)

While literature is distinguished from democracy, we can see that they are intimately linked precisely by this principle of *tout dire*. This move is repeated in other texts:

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5 There is no space to expand here, but the *tout dire* is also closely tied to totality: “to say everything is no doubt to gather, by translating, all figures into one another, to totalize by formalizing” (Derrida 1992: 36). On this account, saying everything implies saying everything that can be possibly said: having the last word. In this, it provides the impulse for literary works to found themselves as their own institutions (as we will discuss in more detail in the penultimate section). Importantly, this transgressive impulse is thus thought simultaneously with this totalizing impulse; the *tout dire* meaning both saying everything (totality) and saying anything (transgression).

Literature is a modern invention, inscribed in conventions and institutions which, to hold on to just this trait, secure in principle its right to say everything. Literature thus ties its destiny to a certain non-censure, to the space of democratic freedom (freedom of the press, freedom of speech, etc.). (Derrida 1995: 28)

Literature and democracy share this commitment to non-censure to pushing the boundaries and restrictions on speech. Literature is thus a democratic institution and its foundation is this right to say everything. Indeed, it's difficult to understate the importance of this link: "No democracy without literature; no literature without democracy" (Derrida 1995: 28). To complete this link, Derrida ties literature and democracy to philosophy, again via the *tout dire*: "the philosophical demand for the unconditional liberty to say everything that must be said and, on the other hand, the literary demand to say everything that one wants without any type of censorship, an emancipation with respect to censorship. This is what seems to me to join in history the literary project and the philosophical project" (Derrida 2024: 11/2). This *tout dire* thus creates a link between the artistic, the intellectual, and the political, all of which are embodied in the institution of literature.

In one sense, this proposal is not a particularly novel position on the link between democracy and free speech. However, what is important here is that the principle of "saying everything" is embodied in literature (rather than, say, journalism or rational deliberation and debate). It is here that something unique happens with the *tout dire*. Literature does not simply defy established institutions and conventions because of *what* it says, but also *how* it says it. Or, more precisely, the link between literature and the performative force inherent in language. This allows Derrida to allocate literature an even higher position, granting it a "subversive juridicity" (Derrida 2018: 70). This emerges from the fact that literature

supposes a power to produce performatively statements made by the law, by the law that can be literature and not only the law that subjects literature to itself. It therefore makes the law; it emerges in that place where law is made. But, under certain conditions, it can also make use of the legislative power of linguistic performativity in order to circumvent the existing laws from which it nevertheless obtains the safeguards and the conditions of its emergence. (Derrida 2018: 70).

It is this performative dimension of language that literature deploys both to create its own works and institutions, but also to undercut pre-existing laws, even if these conventions give literature its very force. Peggy Kamuf nicely captures this point in emphasizing that this performativity is the mutual condition of literature coming before the law, which has also to come before literature, and where "to come before" has both juridical and temporal senses" (Kamuf 2019: 124).<sup>6</sup> Literature comes before the law in time, insofar as law needs to become

6 Much of Kamuf's work involves insightfully teasing out and complicating this relationship. Alongside *Literature and the Remains of the Death Penalty* (2019), see in particular *Book of Addresses* (2005).

articulated in performative language in order to establish itself; but literature also has its performative power made possible through a series of conventions, with such conventions institutionalized, and judged, by a form of law. Because of this mutual condition, the very meaning of literature is never self-contained and never limited, because there is always the possibility of it defying the conventions that define it. Literature can thus undermine, mimic, repeat, or critique any specific conventions in its ability to create through language. Derrida expands on this: “And it does so thanks to the referential ambiguity of certain linguistic structures. Under those conditions, literature can trick the law [*jouer la loi*], repeat it while also deflecting (Derrida 2018: 70). At this moment, “when it tricks the law [*joue la loi*], literature goes beyond literature. It finds itself on both sides of the line that separates the law from the outside-the-law [*hors-la-loi*]” (Derrida 2018: 71). If literature is splayed between the law and outside-the-law, it is because of its ability to embrace and employ performative language: in this respect, it does not simply follow conventions, but repeats them and, in this iteration, has the potential to transform or overthrow these conventions. In this way, literature itself has the potential to overflow its own institutional boundaries.

Yet, as the references to the law above, and the link between democracy and literature in the *tout dire* suggest, Derrida is not only considering literary conventions and institutions here. The implications of literature’s performativity go far beyond this. In having the potential to mimic the performative force of linguistic utterances, it becomes tied to other institutional structures which rely on this force as a foundation. Literature thus repeats the performative move of major social and political institutions, but it puts it on display:

literature shares a certain power and a certain destiny with “jurisdiction,” with the juridico-political production of institutional foundations, the constitutions of States, fundamental legislation, and even the theological-juridical performatives which occur at the origin of the law. (Derrida 1992: 72).

From this perspective, literature is a fundamentally political thing. It is involved in this “jurisdiction”. If Derrida places this in scare quotes, it is no doubt to foreground the diction (or saying) of law (*juris*). Law does not simply exist, but it needs to be said, to be released and articulated, to take place in language and it is this saying which literature can draw on to undermine and undercut the law in its very moment of emergence.

What is important is that literature displays the structure of these institutions, their own reliance on performativity. And it does so *as* an institution and a unique one at that: “this is not one institution among others or like the others”, because it has a “paradoxical trait” (Derrida 1992: 72):

it is an institution which consists in transgressing and transforming, thus in producing its constitutional law; or to put it better, in producing discursive forms, “works” and “events” in which the very possibility of a fundamental constitution is at least “fictionally” contested, threatened, deconstructed, presented in its very precariousness. (Derrida 1992: 72):

There are two critical points here worth pausing on. Firstly, literature is an institution which transgresses conventions; it is an institution that, on Derrida's definition, inherently goes beyond convention. And this is so because of its performative force, which is how it embodies this principle of *tout dire*. Secondly, it places its own fragility on display, "presented in its very precariousness". It shows its own reliance on performativity and in so doing contests other institutions which would deny their fragility and reliance.

The *tout dire*, therefore, represents a transgressive force, one which pushes beyond any set conventions. This principle is fundamentally political, linked to democracy itself. Crucially, literature is a distinct institution because of its relationship to performativity. Literature thus thinks the institution through its own performative acts, founding itself while displaying the very fragility of its own foundation and that of other socio-political institutions. It is in this respect that literature represents a modality of thought for thinking not only its own institutionality, but institutions in general.

## Literature for Institutions

Literature thus plays an important role in Derrida's political thinking, not least in its link to democracy to come, "inseparable to me from what calls forth a democracy" (Derrida 1992: 37). But this is not the only way that literature can relate to Derrida's broader philosophical framework. Indeed, literature can provide a particularly important insight into the link between institutions and *différance* itself. I will propose that literature can demonstrate the crucial role that institutions play as an effect of *différance*: literature does not simply allow us to experience the groundlessness of *différance*, but also shows how such experience is mediated through institutions. It does so by creating institutions, namely literary works. In this respect, the experience of literature draws our attention to the inescapability of institutions.

*Différance* has been long understood as a key part of Derrida's thought. There is not the space here to explore the different understandings of the term, but there are two points that need to be foregrounded. Firstly, *différance* is not something which is experienced, but rather is what makes any experience possible: "It is a relation, one that accompanies all presence but is itself never present" (Rae 2020: 65). In this respect, as many of the other quasi-transcendentals, it functions by "shaping the essence of our experience, rather than being experienced as such" (Hobson 1998: 28). We can never have an experience of *différance* and this is because it precedes and makes possible all the categories of experience, including being and nothingness. Indeed, *différance* cannot be clearly defined because it cannot be reduced to these categories. As Sands puts it, "there is not even a fixed position from which to begin speaking as *différance* disrupts this possibility" (2008: 531). One way to understand *différance* is as the condition of possibility for any experience, but which for this reason cannot be experienced. The second aspect of *différance* worth foregrounding is that, though it resists experience, *différance* has effects. *Différance*

is not some purely abstract ontological ground for reality, but rather also impacts it. It is not a pure or infinite deferral, but “is rather a delay that sustains the present even as it divides it” (Maclachlan 2012: 32). These effects include categories of experience or the subject of experience itself. I propose that institutions can be understood as one such effect and that literature allows us to attend to this relationship.

Institutions, as an effect of *différance* represent an important part of the argument in ‘Préjugés: Before the Law’. If Derrida emphasizes the parable within *The Trial*, it is in large part because of the deferral of access to the universal, or more precisely a law that should be universal. ‘Before the Law’ involves a man from the country who is continuously delayed from entry into the law by guardians. Rather than being barred from entry, the guardians ask him to wait, and he waits until his death, when the guardian finally shuts the door. Derrida takes this parable to describe the limit of our access to *différance* in experience:

By interfering and delaying [*en interférant et en différant*], the law interdicts the “doing” [*férence*], the rapport, the relationship, the reference [*référence*]. The origin of *différance*, that is what *one must not* and that cannot be approached, presented, represented, and above all, penetrated. (Derrida 2018: 53)

The origin of *différance* is something which can never be reached, like the law in Kafka’s parable, something which is always deferred and with which we can have no final relation to. This origin is not open to representation, as it is precisely that which makes representation possible. And, in this mention of *férence*, we can see a link here between the limits of representation of the other that we saw in section two: “So thinking about difference is thinking about ‘ference’. And the irreducibility of ‘ference’ is the other” (Derrida 1985: 20). In the above quotation, we see that *férence* is rendered as “doing”. Looking closely at the etymology, we can unpack this somewhat further. As a suffix, it comes from the latin *ferre* (to carry) and thus giving “the meaning of ‘to carry’ or ‘to contain’ and, by extension, ‘to produce’ something”, so that “the words constructed from this signify that which ‘carries, supports, contains, holds/ includes (*renferme*), transports’ something”<sup>7</sup> (CNRTL: 2012). In this respect, while there is a link to doing in the word, it has a broader semantic field of carrying, supporting or moving, in this case, meaning. In interrupting *férence*, therefore, Derrida points to the fundamental way that *différance* impacts relation and reference, drawing attention to that which cannot be carried in this movement of *férence*, the other. Literature draws our attention to this failure or interruption of *férence*, of the “must not” of *différance*. But this failure is not all that is communicated; in translating *férence* as “doing”, we can also see an active dimension to this movement of meaning, which gives rise to a different relationship.

This different relationship is encapsulated in ‘Préjugés’ by the figure of the guardian. It is here that we can begin to see how institutions operate as an effect

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7 My translation.

of *différance*: this delay and limitations of *férance* are not immediate or unmediated, but rather are thoroughly mediated. Literature helps us attend to this:

in order to have some *rapport* with the law based on respect, *one must not, one must not have* any rapport with it, *the relationship must be interrupted*. We must *establish a relationship* only with its representatives, its examples, its guardians. And these are interrupters just as much as messengers. (Derrida 2018: 52).

The guardian is not only that which blocks entry, but also that which makes possible some form of access to the law. The guardian becomes a representative of *différance* and is the only representation that we can have of it. *Dif-férance* does not *simply* defer/differ: rather, mediation and interruption take place in this deferral and difference. And, for Derrida, this mediation and interruption, these guardians, are precisely institutions. Indeed, though not stated explicitly, Derrida gestures towards this in his own account of “the laws of literature” (Derrida 2018: 68), by which he means a legal system emerging in the eighteenth-century in Europe which “regulates the problems of the ownership of creative works, the identity of corpses, the value of signatures, the difference between creating, producing, and reproducing, etc.” (Derrida 2018: 69). Critics, academics, writers and other “guardians” “appeal to a law, appear before it, watch over it and at the same time allow themselves to be monitored by it” (Derrida 2018: 69). However, this does not get us any closer to the problem of the origin of this law, to an essence of literature. No matter how much they “interrogate its singularity and its universality [...] none of them receives a reply that does anything other than reaffirm *différance*” (Derrida 2018: 69). Specific laws and expertise do nothing to get around *différance*, access to which remains mediated and interrupted. But this does not mean that the specific conventions, rules and institutions which mediate *différance* can be ignored. Quite the contrary, literature emphasizes that institutions are inescapable.

To illustrate this dynamic further, it is worthwhile turning to a questions-and-answers session that Derrida conducted after giving the ‘Before the Law’ lecture in America. Published as ‘Women in the Beehive’, this text focuses on feminism and the institutionalization of it within American universities. Here, again, we see ‘Law’ as *différance* as well as mediated by guardians. While supporting feminism, Derrida wants to emphasise that this noble effort does not remove the problem of institutionalization and the Law: “Do the women who manage these programs, do they not become, in turn, the guardians of the Law, and do they not risk constructing an institution similar to the institution against which they are fighting?” (Derrida et al., 2005: 190). For Derrida, what feminism opens up is the potential to critique the fundamental “phallogocentrism” of society, as well as the university, “to deconstruct the fundamental institutional structure of the university, of the Law of the university” (ibid: 191/2). By the same token, women’s studies departments remain caught within the problematic of institutionality: “the more it legitimizes itself by this power; the more then, it risks to cover up, to forget, or to repress the fundamental

question which we must pose” (ibid: 191). So that, “as the research in women’s studies gains institutional legitimacy, it also constitutes, constructs, and produces guardians of the Law.” (ibid: 189/90). Radical and progressive movements that might challenge some institution do not escape the problem of institutionality: there is no natural foundation for these, rather they all rely on a foundation of *différance*. The issue is not to have done with institutions, but rather to establish a new relationship with the ‘Law’: “In any case, if one takes again Kafka’s text, if one were to radically deconstruct the old model of the university in the name of women’s studies, it would not be to open a territory without Law—the theme of liberation if you like. But it would be for a new relation to the Law” (ibid: 192). We will come back to this new relation in our final section, but we see that this is not a matter of doing away with institutions, but rather of finding a new relationship to them.

Importantly, we can draw out a further consequence of the performative relationship to language that literature articulates: literature mediates *différance* through the creation of new literary works, which can be understood as institutions. This can help us re-read a citation we saw in the last section:

it is an institution which consists in transgressing and transforming, thus in producing its constitutional law; or to put it better, in producing discursive forms, “works” and “events” in which the very possibility of a fundamental constitution is at least “fictionally” contested, threatened, deconstructed, presented in its very precariousness. (Derrida 1992: 72):

Literature does not abstractly contest institutions simply by displaying their arbitrary grounding; it does this *via* “works”, through literary acts, which are themselves institutions. In “transforming” and *thus* “producing” its “constitutional law” the *tout dire* does not simply break free of rules, but in this breaking free, it creates new institutions and new conventions: “to break free of the rules, to displace them, and *thereby* to institute, to invent” (Derrida 1992: 37, emphasis added). The “thus” and “thereby” in these phrases play an important role: they emphasise that the transgressive and disruptive attention that literature offers us is produced by new institutions being formed. It is only by displacing these rules that something comes about and what comes about is an institution. In this respect, it is “at once institutional and wild, an institutional place in which it is in principle permissible to put in question, at any rate to suspend, the whole institution”. (Derrida 1992: 58). There will always be another institution, because it is institutions which replace institutions. It is this double movement, undermining an institution while constructing new ones, which makes literature “an institution which tends to overflow the institution”. (Derrida 1992: 36). Literature thus captures the need for institutions in this overflow. And, indeed, this can perhaps be best illustrated by an example. Returning to ‘Before the Law’, Kafka does not simply demonstrate that *différance* must be mediated, but *The Trial* also mediates *différance*:



But what he (Kafka) is doing, in the meantime, is writing a text which in turn becomes the Law itself. “Before the Law” is the Law. We are in front of it as in front of the Law. He reproduces the situation, and the Franz Kafka signature, or the signature of the text, makes the Law—in a deconstructing movement. So deconstruction affirms a new mode of Law. It becomes the Law. But the Law is guaranteed by a more powerful Law, and the process has no end. (Derrida 2005: 197)

This “new mode of Law” is something which is made possible by literature. Kafka thus represents an exemplary form of re-thinking institutions. Institutionality is inescapable, efforts to usurp it will simply install new forms of law. The anti-institutional is destined to eventually become itself an institution. Derrida has little concern with escaping the Law, rather his interest is in the relationship that we have with the Law, to the guardians and mediators that take this up. Literature provides us with such guardians and institutions, but it does so from a space of fragility.

But it’s not just Kafka who attests to the need to form new relationships with institutions; Derrida has hatched a similar plan. As we’ve seen, rather than rejecting the possibility of institutions, Derrida is committed to thinking “a new relation to the Law” (Derrida 2005: 192). And, indeed, we need to understand this new relation as being fundamental to Derrida’s philosophical approach:

Deconstruction is the Law. It’s an affirmation, and affirmation is on the side of the Law. [...] As soon as you affirm a desire, you perform something which is the Law. The Law says, “yes.” That’s difficult to understand. The Law is not simply negative. That’s why writing in a deconstructive mode is another way of writing Law. (Derrida 2005: 197)

Reconfirming what we have seen in our last section with even greater force, institutions (or here ‘the Law’) are not to be rejected, but rather represent an inescapable part of existence. In this respect, deconstruction is not anti-institutional, but rather seeks another form of institution: “a deconstructive mode is another way of writing Law”. This other way of writing Law, I propose, as well as this deconstructive mode is the experience that Derrida ascribes to the literary and literature.

## Literature as an Institution

Thus far I have proposed that literature represents a privileged modality of thought for Derrida in thinking institutionality. I have proposed that its anti-essentialism, its resistance to transcendence, its fragile foundations and its performativity all draw our attention to the groundless and constructed nature of institutions, but also to the necessity of institutions in the mediation of this groundlessness (i.e. *différance*). In this final section, I will go further and suggest that literature also represents an exemplary model of what an institution *should* be. What are the characteristics of this model?

The first aspect we have seen is that literature is fundamentally anti-essentialist within this account. By this, Derrida means that it does not operate within a pre-defined field, with a pre-defined object or with an established definition of itself. This is not to say that meaning does not occur and there is no sense within the institution, but rather that all determinations are subject to revision and are understood contextually and pragmatically, rather than within a horizon of essence.

The second aspect is that literature is a fragile institution. Indeed, this fragility is what makes literature exemplary as a model of an institution: it exhibits its lack of security. The literary acknowledges the arbitrariness of its foundation and its lack of stabilizing external reference. Crucially, if this is an exemplary institution, it is because literature is not alone in sharing this lack of foundation; indeed, it is shared by all socio-political institutions, including the state. It is this acknowledgement which Derrida foregrounds in his account of literature

Thirdly, in a related way, literature as a model for institutions foregrounds the mediation of this ground. As Derrida has demonstrated, while *différance* is unrepresentable, it still has effects on experience. Indeed, it is precisely in this inability to fully represent that institutions emerge. In section one, we saw the literary defined as a resistance or folding which delayed transcendence. This non-transcendent approach draws attention to mediation and form. In so doing, it demonstrates the mediated nature of all institutions and of all guardians that determine any institution.

Fourthly, literature is a model because it takes place through institutions. In so doing, it acknowledges the inevitability of institutions. Rather than pretending to be a space of non-institution, literary works are precisely institutions in themselves, working with previous conventions, transforming these rules, and producing meaning.

Finally, literature does not come with any guarantees. It is important to stress that what Derrida describes in literature is framed not as an essence, but as a tendency: “it is an institution which *tends* to overflow the institution” (Derrida 1992: 36, emphasis added). Indeed, this is itself already implicit within the French *expérience* meaning both experience and experiment, as in a scientific experiment; with the latter, naturally, connoting a lack of guarantee or certainty in the result. As both experience and experiment, therefore, literature displays its fragile foundations in a literary work and institution, but it does so without a guarantee of the effects (if any) of this institution, what these effects will be, and when they will take place.

## Conclusion

Literature indicates an experience for Derrida which reveals the nature of institutions and provides us with space to think through a new relation to institutions. This relation would be based on anti-essentialism, the fragility of the foundation of such institutions, and an awareness of the mediated nature of

this ground. Importantly, as a form of thought and as a model for institutions, achieving this is far from guaranteed: rather literature offers a tendency and a possibility that this will take place in *expérience*, as both experience and experiment. Importantly, it does this while attesting to the inevitability of institutions. In its inherent lack of an external referent, its performative self-founding and its resistance to the transcendence of identity, it provides the resources for a new way of thinking about and engaging with institutions.

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Kilijan O Fahi

## Književnost kao način mišljenja: Deridina institucija razlike

### Apstrakt

U ovom članku, predlažem da književnost predstavlja privilegovani modalitet mišljenja institucionalnosti u Deridinom delu, kao i da književnost predstavlja primer institucije. Prvi deo predstavlja Deridino razumevanje književnosti kao anti-esencijalističkog modusa iskustva koje se opire transcendenciji identiteta. U drugom odeljku, prelažem da književnost stremi ka svojoj sopstvenoj krhkosti, kao i da joj nedostaju konačni temelji ili spoljašnja odrednica. Potom promatram političke implikacije ove pozicije, demonstrirajući kako književnost ne samo da nas ohrabruje da se suočimo sa njenim krhkim temeljima, nego takođe i sa temeljima socio-političkih institucija uopšte. Ona to postiže kroz svoj specifičan odnos prema performativnom jeziku. U četvrtom delu, tvrdim da književnost razotkriva institucije kao efekat rAzlike (*différance*); radije nego smatrati rAzliku kao beskonačno odlaganje, smatram da institucije potiču iz procesa rAzlike. Književnost podcrtava neizbežnost institucija. Naš cilj, kako naglašava Derida, ne bi trebao da bude odricanje od institucija, već formiranje novih odnosa prema institucijama. Zaključujem članak sumirajući neke od implikacija ovakvog shvatanja književnosti, kao institucije koja daje uzor za novi odnos prema institucionalnosti, onakav kakvim ga je vrednovao Derida.

Ključne reči: Književnost, Derida, Institucija, Misao, Iskustvo, Performativ, Anti-fondacionizam