

Can there be a refugee jurisprudence? A minor pedagogical inquiry

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What role does legal education play in the way the idea of the refugee is understood? How might Indian law students, for example, understand refugee law based on the way they learn legal theory? This paper shows that common law jurisprudence - across the traditions of positivism, natural law, and realism - is primarily interested in performing a line-drawing function between the legal and the non-legal, the lawful and the lawless, the normative and the descriptive, the foundational and the aspirational. Through this pedagogical process, students are jurisprudentially oriented towards exiling the figure of the refugee from the province of "laws properly so-called", or the spaces they occupy (the detention camp, for example) are turned into zones of jurisdictional trickery (law's presence through absence). When the law does extend recognition of the law's others, it does so by turning the refugee into an abject figure. The paper argues for the rehabilitation of a minor tradition of outsider jurisprudence as a pedagogical approach that might be able to transform the South Asian law school classroom into one that foregrounds questions of responsibility, care, and reciprocity to re-imagine jurisprudence as a relational field of hospitality towards the "non-peopled".