

Jean-Luc Nancy or Justice as Ontology of the 'With'

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Justice does not come from the outside (what outside?) to hover above the world, in order to repair it or bring it to completion. It is given with the world, given in the world as the very law of its givenness. Strictly speaking, there is no sovereignty, or church, or set of laws that is not also the world itself, the severed [or carved up] trace that is both inextricable from its horizon and unaccomplishable. One might be tempted to say that there is a justice for the world, and there is a world for justice. But these finalities, or these reciprocal intentions, say rather poorly what such justice is. In itself, the world is the supreme law of its justice: not the given world and the 'such that it is,' but the world that springs forth as a properly incongruous incongruity.

—(Nancy, 1998, 189)

This text by Jean-Luc Nancy, presented in 1982 at the conference 'How are we to judge? Building on the work of Jean-François Lyotard', is dedicated to the theme of justice understood as an ontology of being as tying.

Nancy focuses on two main questions: what is the scope of the interrogation 'how to judge'? In what sense

can one say that who judges is at the same time judged by his own judgment, incessantly measured with the duty of judging?

By addressing these issues, Jean-Luc Nancy examines the description of the lawsphere as a harmonic balance with different components. This equilibrium, he underlines, would be possible only if the nature of the social actions could directly derive from a logic recognisable and obvious for all. As if there was not an assiduous and recurrent dispute between issues and opinions, findings and appreciations, being judgment and value statements: between the being of things, where meaning is accepted as identical for all members of the group, and the value of things, which is different for all members. Nowadays we have to accept that rules themselves can no longer be deduced from a single supreme principle to measure all others. In the absence of either any unconditioned criteria to trace back to, or any generalised metalanguage able to reconcile the discrepancy between rights and powers, the law unsettles, disrupts, disjoins, loses the possibility to act as a general equivalent and devotes itself to incommensurability. Unable to govern the lack of any common measurement, law appears more connected to rightness than to justice: more to adjustment or justness than to the *métrion* (the right measure) or to the *koinôn métron* (the common measure).

This condition does nevertheless not entail a larger freedom: it does not discharge itself from the obligation to decide; it is not exempt from the duty to pronounce and to tackle judgments. The ‘falling short of the law’, this breach to the law and of the law are, on the contrary,

what 'condemns [it] to the day of judgement'. It is precisely the non-deductibility of judgment, indeed, that decrees the '*dies irae*': that opens wide the doors to the time of apocalypse, the final verdict, the last judgment. Once the earth is Nietzschean-fashion unchained from its sun, once inside the dimension that Maurice Blanchot defined as the 'disaster'ⁱ, once discarded the use of a normative original prototype accredited to confer legitimacy to all that is compatible with his paradigm, the sentence of judging and being judged is the very *last instance*, without any further recourse: it excludes any option of appeal and derogation. Not only this; it makes evident that each proposition contains an implicit judgment, but also it obliges each to define and declare the rules of that judgment.

Consequently, freedom is no longer guaranteed by any legal, political or economic pattern. Hence, the results overlap with the imperative injunction of the responsibility: 'responsibility for what is neither knowledge nor revelation, for what is not available, for what does not even have concept or signification' (Nancy, 1999a, 291–292). Thus, freedom finally coincides with an unconditional demand or an unavoidable requirement to the ethical norm that exposes the individual by detecting its fini-

ⁱ 'If disaster means being separated from the star (if it means the decline which characterizes disorientation when the link with the fortune on high is cut) then it indicates a fall beneath disastrous necessity. Would law be the disaster? The supreme or extreme law, that is: the excessiveness of uncodifiable law – that to which we are destined without being party to it?' (Maurice Blanchot, 1980, p. 2)

tude, and performing its limits. Borderlines and freedom hit each other in the sense that they 'figure', they open to the 'with': because it is on the shadow line of the former that the latter begins. Experience of freedom, according to Nancy (1996, 69, 37; 1988a, 71), is the judgment day: the 'spacing of compearance', the 'distancing and spacing which is that of Being and, at the same time, that of the singular and the plural', the threshold that insists, repeats, starts and restarts, begins and recommences, each time more irreducible. It renders justice to existence because liability both binds and puts together: 'freedom is immediately linked to equality, or, better still, it is immediately *equal to equality*. Equality does not consist in a commensurability of subjects in relation to some unit of measure. It is the equality of singularities in the incommensurable of freedom'.

Immeasurable, the world itself has a law and remains a law unto itself: the law of being at the same time singular and plural; the coexistence of singularities that incessantly reaffirms and disavows themselves from being confined to this world, without reciprocity, without measure, since 'always and never affected, the limit is in sum both inherent to and exterior to the singular: it is ex-posed' (Nancy, 2000, 104): an elusive world this, a trace of the border that exposes singularities to each other, which defines this and which leaves them taking place within itself. Today, indeed, as Nancy writes (2012, 15; 2005, 195, 196; 2002, 55), 'the destitution of the Supreme Being has the direct and necessary consequence – the obligation of creating a world'. Hence, the world can no longer be understood 'as a *cosmos*, according to the harmony that the Greeks

saw'; and even 'as a world created-separated by a creator located elsewhere'. It is, rather, 'an environment where we are and that it is not conceivable that from within. We live in a world, and not in front of it. Thus, one can say that we never see a world: we are there, we inhabit in it, we explore it, we are and we get lost'. It can be said that 'this world is coming out of nothing, there is nothing before it and that it is without models, without principle and without given end, and that is precisely *what* forms the justice and the meaning of the world'.

Inferred and not built, judgment imposes dogmatically itself on its subject matter and constitutes the latter as a result whose consistency is subordinated to logical prerequisites considered as valid always and everywhere. Rational necessities predate, include, and govern this coherence – that presupposes that they can illuminate hidden links of it without any doubt. In this case, judgment appeals to a totality, to terror and totalitarianism pertaining to it.

In contrast, there is the judgment that happens, the effective and deliberate verdict. It incorporates a body of work and proscribes in different contexts and in all sorts of sub-contexts. It embodies a multiplicity of movements as gesture performances, discursive acts, texts. It agrees not to be in charge of the preconditions and to not having knowledge of them except when carried out in practice. In this case, it introduces a different pattern of legal normativity: it allows the emergence, between laws and facts, of an independent order of combination of rule and case. Then, while not eliminated, the aporias of normativity defer from the ideal of the decision to the decision in

a certain place. In short, to the faculty to be, not indices of this compound, rather factors of related connections: to be builders of new and unknown relationships into the series in which they appear and they initiate. Disputes no longer appear in a network of concepts defined in advance, but they acquire a new relevance by investing into the margins that normally circumscribe the dimensions of the field and constitute the circumstances. Therefore, the link between facts and categories looks as if it is challenged, refuted, by the importance that indeterminate plurality of conjunctures acquires in opposition to the localised extension of norms.

Viewed in this way, the question posed by Nancy folds and enfolds in two margins that balance and overlap each other. On one hand, the law that is absent. A negative aspect that becomes a positive condition, the advantage of a bond, the usefulness of a tie: we have to create the law. On the other hand, the non-coincidence of law with the law of nature: the dissolution of any preliminary guarantee requiring the faculty of judging to transform its disproportion when measured.

These margins, briefly, obliterate the distinction between legal norms, which refer to a code, and the rules of the games, establishing programs. These norms bear reference to a specific system that will enable them. The rules structure the processes and are justified by the game itself: by the only motive that the guidelines leave possible to carry out. The former need a reason to depend on and to respond to: a theory or an ideology that claims an authority and ensures that it is legitimate. The latter, contrariwise, are self-sufficient: it is simply enough to play

the game that stems from them. Which means that it is not supposed to trace back to a primeval norm to reproduce mimetically, but to recognise the obligation to establish rules. This is the law of the law, which judges reason, handing it to judgment.

Once we consider the differentiation boundaries, intersection and dispersal related to the antithesis between code and program, then we may address the principle by which we cannot pass a judgment about something if we have not previously defined the object on which to output an assessment. We next interrogate the fact that, because community and disparity of intents, agreement and disagreement, communication and negotiation become possible, we need a preliminary and prejudicial discrimination between two distinct plans of correspondences: between assessments and appreciations, reality and thought, ontology and noology. We pose the query, in other words, about the immeasurable structuring between, on one side a figurative aspect, designation, reality itself that solicits us or asks us something; and, on the other side, a discursive aspect, commentary, meaning, a desire to stop the flow of opportunity and to frame it in a more or less stable hierarchy. Alternatively, quoting Jacques Derrida (1980, 119) on Heidegger (1938a, 131–132; 1938b, 90–92), emphasising the world understood as a 'presence (*Anwesen*) which seizes man or attaches itself to him rather than being seen, intuited (*angeschaut*) by him', where it is the 'man who is taken over and regarded by what-is': where the man is 'also an object, *Gegenstand*'. And yet on the other hand retaining 'an idea as an image in and for the subject, an affection of the subject in the form of a

relationship to the object which is in it as a copy, a painting or a scene.

There is thus a sharing, in the twofold meaning of stripping away and partaking, as a contraction between inside and outside: two-steps and a flow of reduction and amplification between legal norms and rules of the game. 'The one' – Derrida insists (1967, 369–370) cited by Nancy (1982a, 249) – 'seeks to decipher, dreams of deciphering a truth or an origin which escapes play'. 'The other, which is no longer turned toward the origin, affirms play'. The *telos* of rules, Nancy concludes (*Dies Irae*), is not something given in advance, an original model to join or to resume, but it answers to another disposition: 'to inhabit the world'.

Being affected by the game rules environment means that everything connected to the realm of the sacred fades from the body of law. *Lex aeterna* and *lex naturalis* abandon the field at the sole initiative of the *lex humana*, leaving the latter exposed to a new freedom because it finally finds in itself the strength and the sense that it requires. Within such a framework, normativity follows a double prescription. On the one hand, in the judgment is introduced the infinite remoteness of its *telos*. On the other hand, declining to establish the effectiveness of a judgment over an authority that foreruns and overwhelms it, the law ends by accepting the justification based on its simple performativity. That is to say, its ability to make valid and actual the generalisation of a system of singular plural dispositions through a function of agency and pacification.

Lacking a source of authority stemming from a previously established power, the law is in charge of legitimising this same power: it accomplishes this, by establishing itself as its own decisive limit. Authority, therefore, presents itself as *legibus alligata*. Exposed to laws, the authority accepts a general and preventive restriction that may decide on its revocability: limitation acting as controller, but at the same time, giving to authority the eminent *dignitas* that assures its recognition. This issue concerning the origin of power has very important consequences for social organisation. If the force of authority has an extra-human origin, societies cannot freely choose to structure themselves in one way or another: they must observe obsequiously the dictation of a transcendent will. When, on the contrary, we put the emphasis on its political source, we may entrust the legitimation to the experimental action (*praxis*) of the *universitas civium*.

Nomos and *exousia*, law and power expose each other. That is how, from one side, the first encloses the other but does not exist separately, and then also depends on it. While, from the other side, the second does not automatically equate with oppression or coercion. The strange in-betweenness of this couple exposes to us, not to itself, and we are exposed to it. As Nancy writes (2014, 43), 'it can expose—in the sense of make appear [*faire paraître*]-the exposition, in the sense of a limitless endangerment'. Hence, in the exposition, the compearance of the *demos*, the people, the ones with the others, offers itself as a body where *energēō* (ἐνεργέω) and *katargēō* (καταργέω), pow-

erful and powerless, will to power and will to chance, become interdependent and intermingle. Once enforced, they both cannot escape criticism and challenges: ‘the people’ – Nancy continues (ib., 33) – ‘remain or operate from within a compulsion to dissolve/reinvent the bond (of the law). Dissolution opens onto the infinity and absenting to oneself [*à soi-même*]. But reinvention is not a simple, determinate identification since sovereignty exceeds the law that it disqualifies [*réfuse*] while founding it’.

In contrast with ‘the polarity subject/citizen’, Nancy (1993, 112) rejects the tradition that, as Hannah Arendt (1961, 157) describes well, ‘is almost unanimous in holding [that] freedom begins where men have left the realm of political life inhabited by the many, and that it is not experienced in association with others but in intercourse with one’s self’. This indicates a public freedom, anteriority over a private or interior freedom. Or, to be more precise, for Nancy (1993, 115; 1988a, 72) ‘the common will’ of the population acts as fraternity and is superior to any other authority in the sense that fraternity ‘is not the relation of those who unify a common family, but the relation of those whose Parent, or common substance, *has disappeared*, delivering them to their freedom and equality’. That is ‘fraternity’ without father or mother, anterior and posterior to all law and common substance. Or if it were possible to conceive of ‘fraternity’ *as* Law and *as* substance: incommensurable, nonderivable. And if it is necessary to put in these *seizure of speech* (*prise de parole*): the emergence of passage of some *one* and every *one* into the enchainment of sense effect’.

At the outset, groups of co-citizens or fellow citizens fraternise in a social relationshipⁱⁱ. Like Nietzsche in *The Gay Science* (1882a, § 335, 212), they say 'we, however, want to *become those we are* – human beings who are new, unique, incomparable, who give themselves laws, who create themselves!ⁱⁱⁱ. By their conscious and voluntary association, 'with and in "civil"["*concitoyenne*"] coexistence as such' (Nancy, 1996, 31), current actions of all co-citizens and of each person create and develop a body of valuable rights in a territory and for an alliance of people. They design a set of rules whose validity does not derive from the society as a whole, nor from the *polis* as an abstract body, source, state or centre of the authority, but rather from the concerted actions of the very same men, who produce, use and judge it^{iv}.

Nancy emphasises (1988b, 89; 1988a, 74; 1996, 83), that these co-citizens live in 'an age in rupture. Which

ⁱⁱ Émile Benveniste (1970, 274; see also Balibar, 1989 and 2012) explains that the meaning of '*civis*' is precisely 'co-citizen.' 'The Greek word *polites* and the Latin word *civis*, both of which we translate as citizen, i.e., the active member of a "city" (...). In Latin the word *civis* is often constructed with a possessive pronoun, such as in *civis meus* or *cives nostri*. Once again, we find ourselves compelled to profoundly question the common translation with "*citoyen*" ("citizen", "*Bürger*"). For what could "my citizen", spoken by any person, possibly mean? The construction with the possessive reveals in fact the true meaning of *civis*, which is a term of reciprocal value and not an objective designation: he who is *civis* for me is someone for whom I am the *civis*. The best approximation would be the name "co-citizen" or "fellow citizen", in terms of a mutual relation.'

ⁱⁱⁱ '*Wir wollen die werden, die wir sind - die Neuen, die Einmaligen, die Unvergleichbaren, die Sich-selber-Gesetzgebenden, die Sich-selber-Schaffenden!*' (Nietzsche, 1882b, § 335).

^{iv} 'Creation is not first of all production, but expression, exposition or *extraneation* of the "self"' (Nancy, 1999b, 275).

means also: they take responsibility for this age, because the questions they are discussing, and especially here, obviously engage in all the ethical and political challenges of our time'. They therefore allow themselves to replace the royal palace with the public space (political space or the political as spacing) of the *agora* (even if 'the images of the *agora* or *forum* could be misleading') and feel free to do so because they look at the past with eyes that no tradition distracts. In this sense, they trigger a commencement that is more than a starting point. It is a continual creation of a plurality of origins: 'it is both a principle and an appearing; as such, it repeats itself at each moment of what it originates.'

To put it in a different way, they open a breach in which it can finally get its consistency:

- i. a freedom experienced by acting and associating with each other's;
- ii. an authority without mores and customs;
- iii. norms established empirically no longer subject to time-honoured standards and patterns.

There is, Nancy writes (1988b, 92), 'not freedom as the property of a subject ("the subject *is* free"), but freedom as the very experience of coming into presence, of being given up, necessarily/freely given up to the *to* (the *to* of the "towards", of the "for", of the "in view of", of the "in the direction of", of the "along side", the *to* of abandoning to, of the offering to, of "to one's core", of the "with regard to", of the "to the limit", and also of the "to the detriment of", "to the bitter end": freedom is wherever it is necessary *to make up one's mind to...*)'.

These *condives futuri*, 'children of the future,' '*Kinder der Zukunft*,' are open to the *adveniens*. Likewise in *The Dawn of Day* of Nietzsche (1881, 8), they are in fact initiated into the mystery of Trophonius; in order to access his cave they must drink consecutively Lethé's water, which clears the mind of the memory of the past, and Mnemosyne's water, which enables the holding back of what would otherwise happen^v. Therefore, they reach the contents of their alliance in the darkness of becoming and moving: in an interval between event and form, *nunc fluens* and *nunc stans*, in an 'interspace between world and toy,' between 'stream and stone'^{vi}.

Otherwise, in the words of Emmanuel Lévinas (1957, 47), they touch the thickness of their link in the dark vault: 'a future already sensed in the present, but still leaving a pretext for decision' and hence in a wave of the time to come considered as a strength and not as a burden. Namely, Nancy highlights (1999a, 293, 295; 1991, 372), the future intended 'not in the sense of something that will "definitely be there tomorrow" but, on the contrary, in the sense of something risked in the manner of the unknown and unforeseeable character of what is still to come.' Consisting in 'an encounter, a work, an event; and

^v 'We children of the future. We "conserve" nothing; neither do we want to return to any past periods.' '*Wir Kinder der Zukunft*'. *Wir "konservieren" nichts, wir wollen auch in keine Vergangenheit zurück*' (Nietzsche, 1882a § 377, 338; Nietzsche, 1882b, § 377, 277; see also Nietzsche, 1887, *Second Essay: 'Guilt', 'bad conscience' and related matters*, § 24).

^{vi} (Rilke, 1911–1922, 30, 16), *Duino Elegies: 'im Zwischenraume zwischen Welt und Spielzeug*, *The Fourth Elegy*; 'zwischen Strom und Gestein', *The Second Elegy*.

once the future has become present, once the encounter has taken place, the work realized, the event faded, then sense—their own sense—moves along again, passing beyond and elsewhere.’ Where we live as it was ‘the Day of Judgment’. The *dies irae*, the day of divine wrath is, undeniably, ‘no longer a day at all but a night from which our days are obstinately woven.’

From there, continues Lévinas (ib., 42, 47, 50, 51), starts the conjunction and the adjustment between memory and imagination that testify ‘at the same time being and experience of being’, ‘control and possession, as a field of forces in which human existence stands, in which it is engaged’. Where ‘the self that is in their grasp decides, is engaged, takes responsibility’. Where, he concludes “‘to exist” becomes both a transitive verb like “to take” or “to seize”, and a reflexive verb like “to feel” [*se sentir*] or “to stand” [*se tenir*]. The reflectivity conveyed by this verb is not a theoretical vision, but already an event of existing itself; not a consciousness, but already engagement, a *way* of being, qualified by all the circumstances one would have been tempted to take for settings’. This state of being alive, ‘in which the existent is both separated from everything and engaged in this everything, is associated with the social experience in which the autonomy of personal existence is not separated from belonging to the group.’

In this way, the co-citizens build a particular rule that steers against the supposedly objective law. Leading to a deconsecration of the *auctoritas* morphed to a simple device, left without the function of general equivalent and thaumaturgy for resolution of disputes. They claim

their heterogeneous subjectivity, 'singular plural', by which normativity is legitimate solely when it respects and enforces the inevitable presence of the *différend*: exclusively when it derives from conflict and negotiation between separate, different, antagonistic, even conflicting positions. They thus dethrone the metajudicial principle related to *lex aeterna* and *lex naturalis* insofar as they – the co-citizens – consider that these two elements are not able to define the *commune mensura* that tames the excessiveness of the 'singular plural': they underscore that the two aspects are pure and simple choices.

They also overturn the hierarchy granting the state the role of absolute source of authority understood as collective consciousness synthesising and safeguarding the spiritual and material interests of the society's members. Bounded by law, subject to the law, a government can create or change laws, but after that, it must comply with it. A government remains devoid of valid investiture and becomes wrongful usurpation when it concentrates a higher power than that allowed by the regulations in force, when it disregards laws, interprets *contra natura*, or when, to preserve the exercise of power, uses intimidation or restriction of rights. 'The institution of the law by the will' – Nancy writes (*Dies Irae*) – 'is itself designated only through submission', but 'undoubtedly, the mode of this submission is not that of subservience to a constraint that would be incompatible with freedom.' The law, as Hannah Arendt (1961, 187, 189, 166) points out, is not a command given to subjects by a power, but the capacity to relate co-citizens: 'the original meaning of the word *lex* is "intimate connection" or relationship, namely some-

thing which connects two things or two partners whom external circumstances have brought together'. Therefore, the law does not 'require a transcendent source of authority for its validity, that is, an origin which must be beyond human power', but only an 'organized multitude whose power was exerted in accordance with laws and limited by them'.

The *populus*, meaning the complete *populus* without any exceptions, i.e. *universitas concivium*, 'primordial plurality that co-appears', 'simultaneity of being-with, where there is no "in itself" that is not already immediately "with"' (Nancy, 1996, 67, 68), is the ultimate source of legal authority for the simple reason that *quod omnes tangit ab omnibus approbari debet*: each one must approve what pertains to everyone. Obviously, if what affects everyone must be approved by any other actor, by extension the exercise of political power is legitimate only in established boundaries: a political power that does not set any limitation is nothing else than tyranny or 'empire'. Law pilots the government and provides the verification procedures by the popular assent without which government itself loses any legitimacy.

From this standpoint, there is a new priority afforded to a jointed/disjointed multiplicity of 'lifetime' as a political node. This primacy grasps and gives voice to everyday life. It neutralises thus the coherent rational argument as unique possibility and pushes forward the recourse to sensitive intuition, enabling the acceptance and understanding of contradiction and paradox. The trust in personal responsibility and in individual initiative becomes

the key fulcrum of the social organisation. Finally, uninterrupted communication brought forward by personal media encourages an active and concerned participation of any singularity within public debate. It promotes the dissemination of organised groups and free associations. Often excluded from the political area, the co-citizens can then be auto-structured in the form of specific affiliations promoting their own statutes. These co-citizens thus introduce unusual relations that displace the political game and jeopardise the regulation of its related policy frameworks by refusing the dispositions with which the latter would like to capture them. They indeed bring to light the presence of multitude: the obscene world of the uncountable, incalculable and innumerable.

This particular law '*concitoyenne*' has not the character of a codification: it bypasses the established measures that serve primarily to be applied. It performs indeed a dynamic process of a simple look-up table correlating facts and their respective qualifications and, drawing on Jacques Derrida (1980, 124), in this context, it announces 'a coming to disclosure, to appearance, to patency, to phenomenality rather than the prepositionality of an objective being-before'. It improves an engagement that privileges innovation over continuity. Far from finding its groundings in the anamneses of the past, it emerges as a project at the end of a collective effort of designing, duly circumscribed in its course, and its origin and its end. That is a common program, which, beyond all individual, social, and cultural differences, is the invitation to create a proper aggregation, not by virtue of the same origin but of shared aims.

This adverts to the denial of all systems and of all beliefs that reflect the authority of the good old days, and displays concomitantly the renunciation of the natural world as basis of legitimation. From the common program emerges the pervasiveness of what occurs in a mutual agreement: its core purpose is the revolt against pre-established conditions and the refusal of not only tradition as such, but the authority of all traditions. This prevalence is characterised also by the scepticism around cultural heritage. The diffidence towards a frozen image of the past assaults the *a posteriori* identification with what has been successful in former times. From this position, the idea that all that has already happened becomes immutable is collapsed, and we stop to side with the last or the most recent winner. The main outcome is an open experience of history according to which the past manifests itself as charged with the time of now, as a choice but also as an occasion: as a memory that is constantly erased and renewed, within which what is valued the most is the capacity to pursue freely chosen objectives, to reach independently established goals. By prioritising the becoming rather than the belonging, the pre-eminence of the future helps to make more habitable a world that defies us all the time. The emerging present, always 'to come', gains primacy over ageless roots as the starting point. Equally, metamorphosis predominates over the familiar and the habitual; hence, alterity prevails over identity and disruption over convergence. This process enhances the prerogatives of plurality, disparity, heterogeneity, chance, and thus we reach what Nancy (1996, 202; see also Esposito and

Nancy, 2001) calls the 'unachieved and unachievable essence of the "with"'.

Law inevitably contains in its corpus many series of unavoidable contradictions. On the one hand, it provides descriptions that refer restrictively to itself and its own ordinations. The archaic potency that anticipates and prefigures legal normativity becomes unnecessary, so confining its implication within its specific set of rules. It refers mainly to a movement of thought that does not take into account any previous knowledge and which rids itself of its author. Nevertheless, on the other hand, it frames actions, establishes a univocal meaning and then crystallises the principles and values landscape shared by the community. In other words, it wedges a hierarchy of priorities that is generally also a moral one; it ballasts the plasticity of social processes, and finally places restrictions on the actions and on meaning freely attributed by social actors.

Thus, Nancy focuses on the necessary reciprocity of the legal relationship between those who temporarily manage public affairs and the population to whom they belong. This intersection provides that the ruling class does not curate the power, but performs a function that is subordinate. Through the quality of administrators, they are subservient to the charge they are responsible for, because they are not masters, but servants of the public singular plural who is the real *dominus*. Therefore, by drawing from the law its *potestas*, the right to rule, law needs to subordinate itself to its own provisions. These are therefore put on the agenda, those issues concerning the demarcation of governmental action and the

obligation of public recognition, the active participation of groups of co-citizens in political life and affirmation of fundamental human rights: 'this is, to be sure, a matter of *human rights*, but, first of all, as the *rights of human beings to tie (k)nots of sense*' (Nancy, 1993, 115).

In this frame, rather than the ideal of totality, Nancy (1999a, 289) affirms the 'disjunctive conjunction' of 'singular plural' which means that each singularity corresponds to all other singularities. In this sense, becoming a man means to put each other in the double position of judging and being judged.

Far from invoking a universal tablet of rules that we should strictly observe, it must appear through exposure, it must '*compear*'. At any time, to be 'responsible for being, for God, for the law, for death, for birth, for existence'. In judging – he writes (*Dies Irae*) – 'I venture a "reason" (or an unreason), that is so judged by what it attempts or risks'. Consequently, I do expose myself to freedom, to the will of chance, into my own body understood as a *res intensa*: tragic hiatus (spacing-opening) of irremediable disputes never solvable. I am judged against the measure of the world that I attempt, for which I try my chance, and not against the measure of a world that is already established. Every attempt is my final judgement^{vii}.

vii "La *comparution*": refers to the act of appearing in court having been summoned. "Summoning" carries a much stronger notion of agency than the more disembodied *comparution* and lacks the commonality implied in the prefix. The Scottish commonlaw term "compearance" - although foreign to most English ears - conveys the meaning exactly and I have retained it' (Strong, 1992, 371).

All this reveals how the sphere of law at the last correlates with a constitutive plurality of irreconcilable factors. It governs the past because it decides upon the resulting consequences and thus adjudicates the last stage of its meaning. It governs the future, on which rests the weight of the attributions of responsibilities arising out from its given interpretations. However, its power is fully carried out only in the present because, until a judgment is pending, it opens a breach in the chronological window: time is petrified for the subjects who remain unable to move forward or backward until the final ruling. Even more dramatically in case of minors, it opens a little *not-space-temps* at the core of time and time just progresses without moving because it stays always hovering and teetering on the edge of the decision. 'Thus, of itself, what is positive intervenes in the law as the contingent and arbitrary, but only to *put a term to the process of decision*' (Nancy 1982b, 141).

The option of choice Nancy concludes (1991, 372; 1993, 111; 1990, 147), entails a common condition that exposes the little *not-space-temps* to us: 'we compare before it - neither "post" nor "pre". But it is the present that is made for us'. This common condition has no denouement. It is a strange loop lacking conclusion and untying: 'without any end other than the enchainment of (k)nots'. The jurisdiction brings into play a sort of 'art of the weaver', an 'infinite tying' that makes up a network of the '*communicability*' where the *conceives futuri* can inhabit 'neither *cosmos* ("smile of the Immortals") nor *mundus* ("vale of tears")', but the very place of sense.

Surviving themselves and events, bodies and actors (*personae*) guarantee, judge, arbitrate. They create storylines in which they try to compose a logic, tie and untie the contradictory knots correlating the assertion of the presence/absence of something with the description of a meaningful context. Between document and monument, trace and memory, autopsy and archaeology, they testify and question the complex relationships between who relates, who listens, who tells a story. Between firstly those reports to refer to and, secondly, those records that are received, who testifies is at the same time the hearer of a story in which *he himself is told*. *He himself is revealed* in the sequence of events, in what he says, in what he means, in what he omits, in what he leaves out, in what the others recall directly and indirectly: clear, convinced, precise, or uncertain, vague, confused, hesitant. The difficult research for an acceptable description, for each one and for all, passes through a narrative pragmatics that presents just a few options among the plethoric possible scenarios: accepting that, at the end of the process, only a few stories prevail. The result is composite histories, coherent-incoherent agglutinations of snippets torn to pieces, arbitrarily arranged, awkwardly adjusted, clumsily adapted, unskillfully pasted together.

At the last (*Dies Irae*; see also Nancy 1999b and 1999c), ‘the day of judgement is not *dies irae*, the day or rather night of religion and fear, it is only *dies illa*, that illustrious day, the sublime day when freedom, law, and the other give me order and the gift of judging’.

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