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DEFENDING ONESELF IN THE ABSENCE OF GOODWILL: NIETZSCHEAN AND SPINOZIST CRITIQUE IN FRANZ KAFKA

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Abstract

This essay aims to delineate the structure shared between Kafka's three novels, Amerika, The Trial, *and* The Castle, *using ideas from Spinoza and Nietzsche, with whom Kafka had familiarity since his youth, namely, Spinoza's idea that the true essence of religion is justice and charity and Nietzsche's idea that justice is born from magnanimity, in order to grasp Kafka's critique of certain unnecessary realities of broadly administered justice. All three novels are structured around an institution - America, the justice system, the castle - as the characters they are composed of operate either as cogs of this institution or demonstrate some function outside of this institution, usually offering some kind of help to the protagonist. However, despite these cogs, the institution never serves its purpose in the same way that, despite these helpers, the protagonist is never helped, precisely because of a schism between the realms of justice and charity.*

Keywords: Kafka; Spinoza; Nietzsche; religion; justice.

1. Introductory Remarks

Interpretations of Kafka's conception of justice have ranged from negative theological to psychoanalytic, to more recent writings inspired by Deleuze and Guattari's *Minor Literature* which take a counter tendency to the previous two, in an immanent, Nietzschean stance (Minkinnen 1994). Though perhaps closer in inspiration to Kafka's own thought, it would seem the question of *which* Nietzsche Kafka himself was inspired by has yet to be asked, as well as what this means for Kafka's works. For, even with an inspiration closer to Kafka's own thought, much of the secondary literature remains as mystifying, or even more so, than Kafka's works themselves. By contrast, this paper seeks to reconstruct Kafka's thought in its Nietzschean inspiration by drawing on Nietzsche's most sustained discussion of justice, in the "The Uses and Disadvantages of History for Life" (Nietzsche 1997, 88), wherein justice is hailed as "the rarest of all virtues". The idea in this

meditation which resonates most strongly in Kafka, specifically in his three novels, is the notion that justice is born from magnanimity (Nietzsche 1997, 88).

Nietzsche was not the first to have coupled justice with magnanimity. To my knowledge, the first to have done so explicitly was Spinoza[1], in his *Theological Political Treatise*. In the *Treatise*, Spinoza considers justice and charity to constitute piety itself, as the true revealed word of God, rather than Scripture (Spinoza 2007, 10). It is worth noting that Kafka himself was a reader of Spinoza and Nietzsche by the time he was a teenager (Kafka 1972, 475). Keeping this in mind, and looking into the structure of Kafka's three novels, one finds evident similarities between them. In all three novels, *Amerika*, *The Trial*, and *The Castle*, there are three essential types of characters. Centered as they are around an institution – America, the legal system, and the Castle - these character types include 1. the protagonist; 2. the workers who serve as cogs of this institution; and 3. the helpers or assistants, those who offer aid to the protagonist, acting relatively independent from and outside of the institution.

However, the institution fails to justly serve its purpose in the same way that, despite the help for the protagonist, the protagonist is never truly helped. This, I believe, is Kafka's most profound Nietzschean and Spinozist inspiration. For, because of the cleft in the novels between the realms of justice and charity ('justice' used here in its broader, ethical sense as opposed to its narrow, legal sense), because justice is not born from magnanimity, justice is not served, and cannot be, just as charity or magnanimity is futile. Herein as well lies Kafka's critique of modern bureaucracy, in that it precludes any possibility of magnanimity, and therefore, justice itself. The bureaucrat is least of all whom Nietzsche would consider just, but rather what he refers to in the same meditation as "the cold demon of knowledge" who "would spread about him the icy atmosphere of a dreadful suprahuman majesty which we would have to fear, not revere" (Nietzsche 1997, 88). This characterizes perfectly those who embody the ostracizing institution in each of Kafka's novels.

Though the idea that it is a specifically Nietzschean justice which Kafka is after, as opposed to one of negative transcendence, has been accepted more

[1] According to Schopenhauer in his *World as Will and Representation Vol. II*, justice and charity is a common coupling of virtues in Protestantism (Schopenhauer 1958, 639), which would explain Spinoza championing these virtues, given his circle of radical Protestant friends and study group members.

recently, the notion that it is more precisely Nietzsche's magnanimous justice which Kafka abides by may seem unlikely if one attaches disproportionate significance to the works which pertain more strictly to law. In *The Trial* and especially in "Before the Law", the theme of negative transcendence is arguably fairly evident, though the question remains of what this theme means, while "In the Penal Colony" has been read through Nietzsche's *Genealogy*, focusing on the cruelty of punishment as a festivity (Minkkinen 1994). While the interpretations of these themes are certainly thoughtful and intriguing, I am not certain if they hit the mark concerning Kafka's thoughts on justice. By attributing a broader meaning to the term 'justice', as Nietzsche does in his meditation, and attaching equal significance to each of Kafka's novels, the theme of magnanimous justice and the meaning of this theme become evident. In fact, it is in *Amerika*, the novel seemingly the least concerned with justice, where Kafka echoes Nietzsche's magnanimous justice most strongly through the mouth of Karl Rossman, to a degree that is simply paraphrastic: "It is impossible to defend oneself in the absence of goodwill" (Kafka 2008, 116).

Kafka's critique of the modern bureaucratic conception of justice, as one bereft of goodwill, is referred to in this paper as a critique of calculative justice. Calculative justice is found to have its roots in the Kantian idea of duty and the supposed goodwill which follows therefrom, this goodwill acting from duty being for Kant the only good-in-itself, or unconditional good (Kant 1997, 13). The modern conception of justice is then traced to its ancient source in Plato, as in the *Republic*, where Socrates defines justice as the division of labor itself (Plato, *Republic* 433a). It is argued that this Platonic notion of justice sets the stage for the Kantian, both of which are defined by a powerlessness and submission to an unattainable above, a universal Truth precluding a Nietzschean perspectivism which would empower each to affirm and justify one's own existence, as the source of magnanimity itself.

2. Against the Moderns: Kant

Connections have been drawn between Max Weber's critique of modernity in his *Protestant Ethic and the Spirit of Capitalism* and Kafka's works (Garcia 2017; Litowitz 2011). It is even considered highly likely that Kafka was familiar with Max Weber's ideas through his brother Alfred Weber, a professor at Kafka's law

school (Garcia 2017, 480). The points of similarity between the two authors include their critique of bureaucracy and its instrumental reason, a reason which, having lost its grounds or kernel as the Puritan belief in a "calling", nevertheless remains caught in its own system, and ultimately becomes irrational, groundless (Litowitz 2011, 51). The most prominent offender of this Protestant systematization in German philosophy is Kant, an author which, as Kafka writes to Felice Bauer, Kafka himself does not know (Kafka 1973, 752). This admission, however, is all the better for the purposes of this paper. For, knowing Kafka to be a reader of Nietzsche, and knowing Nietzsche to repeatedly critique Kant throughout his works, one can see the meaning of this admission not to be that Kafka does not know Kant at all, but that Kafka does not know Kant *firsthand*.

It is fair to conjecture, therefore, where Kafka derived certain statements found in the cathedral chapter of *The Trial*, where K. is discussing with the priest various interpretations of "Before the Law", namely that, accepting things not as true, but rather as necessary, "lies are made into a universal system" (Kafka 1998, 223). This, again, sounds like a paraphrase of Nietzsche's critique of Kant's categorical imperative (Nietzsche 1990, 36). This third comment of K.'s is derived from his previous two, the first being that the gatekeeper who denies the man from the country access to the Law deceives the man, for the gate which the gatekeeper bars the man access to, as it is revealed at the end of the story, is meant only for him. When the prison chaplain responds that perhaps it is the gatekeeper who is deceived, K. replies that it doesn't change his earlier opinion, for even one who is deceived necessarily carries over this deception, resulting still in the man from the country being deceived.

That is, rather than a deceiver deceiving the deceived, it is the deceived who deceive the deceived. This is, in a very condensed form, Nietzsche's critique of modernity. In the *Genealogy*, Nietzsche says, "what constitutes the most characteristic feature of modern souls, modern books is not the lie, but rather the ingrained *innocence* in their moralistic mendacity" (Nietzsche 1998, 99). It would seem the grounds for bureaucratic rationalization, therefore, is not the lie, but rumor[2]. The structure of rumor is such that its origin is lost in its own dissemination, or its very essence is its groundlessness. The gatekeeper deceives the man from

[2] Rumor is critiqued as well by literary figures preceding Kafka, including Shakespeare in *Henry IV* and Dostoevsky in *Demons*. Kafka saw Shakespeare's plays in his early 20's and considered Dostoevsky his blood relative (Bridgewater 2003, 9-12).

the country by virtue of himself having been deceived, and such carrying over of deception or spreading of rumor is the very carrying out of his duty. This same theme of rumor as a duty is present in *The Castle*, the rumor of Amalia ripping up Sortini's lurid letter, which entails the downfall of the Barnabas family, spread out of a "duty that under similar circumstances anyone else would have had to assume too" (Kafka 1998, 208). This 'anyone' (*jedes*) is the same 'someone' (*jemand*) who begins *The Trial*, the someone who "must have slandered Joseph K." (Kafka 2008, 3). The 'must' of this statement, as the duty Kafka describes, this necessity, cannot be ignored. This 'must' as this duty which constitutes the lie made into a universal system is the Kantian categorical imperative, as this anyone or someone is the disinterested and impersonal subject under this system.

Rumor inherently lacks a charitable interpretation. If a rumor continues spreading, it is precisely due to this lack of charitable interpretation which would prevent its dissemination. Yet, the villagers in *The Castle* are not guilty for spreading the rumor of Amalia, for it was spread simply in order to protect themselves from the incident "which one should be most careful to stay away from" (Kafka 1998, 208). That is, the villagers have no charitable interpretation to give, just as the helpers of the three novels have no true help to offer, for no one is in a position to help. It is not as though magnanimity is unconditional and universal like Kant's deontological ethics, but a rare virtue, one which constitutes justice itself, or together with justice constitutes piety itself, both "as difficult as they are rare" (Spinoza 1985, 617).

This true piety is contrasted to mystifying theology in Spinoza's *Theological Political Treatise* in the same way K. confronts the priest who tells him the story of the gatekeeper. The priest reveals himself to be a prison chaplain, or one supposed to offer a universal religion to inmates of various religions. His God is the universal God, as Nietzsche says, "the great cosmopolitan" (Nietzsche 2021, 148). He worships duty itself, as Kant's good will, as the only good in itself, can only act from duty as it is prescribed by universal rational law (Kant 1997, 43). This good will as the good in itself, however, as unqualified or unconditional good, cannot have an origin, much like rumor itself. This good will is far from Nietzsche's or Spinoza's, and hence, Kafka's good will - and this, precisely because of its universalism or ahistoricity.

This universalism and ahistoricity of a good will which acts only from duty, that it holds for all times and in all places, precludes the possibility of a

forgiveness based in understanding, or precludes the possibility of magnanimity itself. Kantian good will, as something to be judged as present or absent without thought to its genesis, is the exact opposite of a Nietzschean magnanimity or Spinozist charity, as something to be attained or learned. Only the latter offers a means of forgiveness, for if universal rational law holds for all times and places, all must be judged only by this measure, and ignorance of this law is unpardonable. It is perhaps the chapter in *The Castle* detailing Amalia's father petitioning for forgiveness which most elaborates this point: "For is an individual official capable of granting pardon? At best this might be a matter of the administration as a whole, but even it is incapable of granting forgiveness, it can only judge" (Kafka 1998, 216). This difference between judgment and forgiveness is what Deleuze defines as the difference between a transcendent morality, judging life by means of values above life, and an immanent ethics, an analysis of capacities immanent to life, himself attributing this distinction to Spinoza (Deleuze 1988, 23).

In opposing a transcendent, moral law to an immanent, ethical justice, what does Kafka positively offer as it pertains to the latter? It has been suggested that Kafka did not actually have a positive vision of justice (Litowitz 2011, 64). Yet, through Karl Rossman's declaration of the impossibility of defending oneself given a lack of goodwill in *Amerika*, a certain reversal is of note. The burden of goodwill is not on the side of the subject or defendant to enact as from duty, but rather on the prosecution. The subject can only defend themself insofar as goodwill is present on the side of the prosecutor, not as a presumption of innocence, but as if to replace the burden of proof. For the presumption of innocence, insofar as it entails the burden of proof, is hardly distinct from the presumption of guilt. The pinning of offense in modern law has already been analyzed in relation to Kafka (Litowitz 2011, 61). In positive terms, however, by contrast, what would an immanent justice do?

An immanent justice capable of forgiveness is one which does not presume, but *finds* innocence rather than guilt, one which seeks an understanding prior even to seeking to forgive. In Kafka's famous letter to his father, we find that his own "sense of guilt that so pervasively consumed me as a child has since been superseded in part by insight into the helplessness we shared" (Kafka 2008, 31). Rather than acting as if one's action can be posited as a universal maxim, it is in responding to actions as though they could not have been carried out differently wherein magnanimous justice finds its principle and wields its power of

understanding. Kafka's sense of justice, as does Nietzsche's and Spinoza's, in no way necessitates a feeling of guilt, but on the contrary, precludes it. This is not to say that Kafka feels no guilt, nor that he is conscienceless. Rather, this is to say, first, that guilt is not original or innate to Kafka, but something external and invasive. Second, this is to say that conscience is not inherently defined by its feeling of guilt.

Concerning the first point, we find in this aforementioned letter that, due to his father's influence, Kafka's self-confidence was replaced by a boundless feeling of guilt (Kafka 2008, 55). This means that Kafka considers his self-confidence to be what is innate and natural, while guilt is categorized as accidental. Furthermore, given that Kafka considers his sense of justice to be an inherited trait from his mother's side, and therefore innate to him, there is no inherent disposition to guilt involved in this sense of justice (Wagenbach 2011, 15). Therefore, concerning the second point, Kafka's sense of justice or conscience is defined ultimately by something *other than* guilt. I believe this sense of justice is rather defined by what he calls in the letter his insight into helplessness, a necessitarianism shared by Spinoza and Nietzsche alike.

When Kafka attributes his sense of guilt to his father's influence, this is not to say that he blames his father for this or considers him guilty. Conversely, though Kafka's sense of justice is defined by his insight into helplessness, this is not to say that he offers no critique or accepts things as they are as eternally fixed. On the contrary, Kafka's critique is all the more scathing, all the more precise, because of his insight into helplessness. It is perhaps surprisingly true that, as Deleuze and Guattari write, there is an absence of critique in Kafka, in the sense that there is no responsible party to be found as the cause for disaster (Deleuze and Guattari 1986, 46). It is indeed central to Kafka's humor that each cog in the machine of an industry is as irresponsible as the rest. There is, however, a critique in Kafka in the sense that a certain problem is diagnosed in its specificity, and it is this problem as it is further elaborated which drives each novel. It has been posited that this problem is the schism between the realms of justice and charity, that justice is not born from magnanimity, that bureaucracy eliminates the possibility of magnanimity by replacing it with a duty based in rumor, and a good will enacted through this duty which is unconditional and unquestionable. It remains to be seen how this schism came about, or which conception of justice prior to the modern ultimately gave rise to the modern, Kantian form.

3. Against the Ancients: Plato

Though Kafka's relationship to anarchism has been documented and analyzed (Lowy 1997), perhaps the most prominent theme in his novels in connection to certain anarchist thought has yet to be established, the theme of the division of labor. In the same "Petitioning" chapter of *The Castle*, Olga explains to K. that "the officials are highly educated, but only one-sidedly so, in his own area an official can on hearing a single word dart at once through complete trains of thought, but if someone explains cases from another department to him for hours on end, he may nod politely, but he won't understand a word" (Kafka 1998, 216). It is this division of labor which effects the cleft between the realms of justice and charity, which precludes the possibility of a magnanimous justice, by reducing one's position to one of the least humanity possible, as one of the least understanding. This last point is distinctly Spinozist, insofar as power is synonymous with understanding itself (Spinoza 1985, 458), and insofar as the very essence of a thing is defined by its power (Spinoza 1985, 499).

That is, no one in the novels is in a position to truly help K., for no one is in a position which grants them a capacity of truly understanding the institution of which they are a part, rendering each as incapable of helping as any other. Insofar as each character's position is a function of duty based in rumor, the knowledge of the institution each has is what Spinoza refers to as the first kind of knowledge, opinion or hearsay, incapable of distinguishing the true from the false (Spinoza 1985, 477-8). Interesting in this regard is Titorelli the painter's knowledge of the legal system in *The Trial*, a knowledge which is tempered by a key gap concerning the highest courts: "we don't know what things look like up there, and incidentally, we don't want to know" (Kafka 1998, 158). This gap in knowledge of the most knowledgeable character in *The Trial* further emphasizes that any and all understanding of the institution is ultimately based in rumor as it is effected by the division of labor.

The distinctly anarchist inspiration in Kafka's critique of the division of labor can be surmised not solely through Max Brod's biographical information, but a specific diary entry of Kafka's, the enigmatic imperative "don't forget Kropotkin!" (Brod 1960, 86; Kafka 1948, 303). In Kropotkin's *The Conquest of Bread*, the chief text of anarchist economic theory, a chapter is dedicated to the

critique of the division of labor and its proponents, including even certain socialists. The crux of his critique is that "by a lifelong grind at one and the same mechanical toil the worker would lose his intelligence and his spirit of invention", a spirit notably absent in the characters of Kafka's novels (Kropotkin 2007, 209). Even the artist Titorelli seems to have lost or failed to ever attain this inventiveness, painting "exactly the same landscape" without "the slightest difference" again and again (Kafka 1998, 163). The Titorelli chapter, as the high comedic point of *The Trial*, is hardly comic relief, but a critique of that which is truly tragic, an ineffective justice as it is rendered by the division of labor.

The conception of justice most concerned with the division of labor is Platonic. In Plato's *Republic*, Socrates states that "justice is doing one's own work and not meddling with what isn't one's own", or that justice is the division of labor itself (Plato, *Republic* 433a). This conception is hypothesized not only on the level of the city as a whole, but also on the individual level, wherein each function of an individual's soul is carried out by the guiding rule of the rational part. What this rational part ultimately commands, however, is what Karl's newfound senator uncle in *Amerika* tells Karl when he is lamenting that he can no longer help the stoker: "do try to understand your position" (Kafka 2008, 32). It is evident how this Platonic conception of justice as the division of labor developed into the Kantian conception of justice as a duty commanded from an unattainable above. Moreso, it is in fact Nietzsche who discovered this lineage from Plato to Kant, by way of Christianity, epitomized in his "How the 'True World' Finally Became a Fable" (Nietzsche 2021, 62-3).

We know Kafka read the *Republic* from his travel diary entry of July 15, 1912, the same year he started writing *Amerika* and two years before he started writing *The Trial* (Kafka 1949, 307). His diary entry concerning Kropotkin was written in 1913, but assuming his diary to be Kafka writing to himself, it is likely he had read Kropotkin sometime before, long enough before to begin to forget and require the imperative to remember. Yet, finding evidence of familiarity with or even enthusiasm for a certain author is not necessarily finding evidence of influence, which can be gauged only by the contents of the works themselves. Nevertheless, the problem of the division of labor as the efficient cause of duty based in rumor, ultimately effecting the gap between justice and magnanimity, is apparent from the very structure of the novels. The unlimited deferral of justice, as the

unreachability of the Castle, requires an unlimited division of labor through which K. must continuously pass.

To establish that the fundamental problem of the novels begins with the conception of justice as the division of labor, it must be established that each novel fundamentally concerns itself with justice. This is clearly so insofar as one broadens the definition of justice from its legal instantiation to simply mean the defense of oneself, the process of defending oneself shared by each novel's protagonist. Both magnanimous justice and its opposite, calculative justice, are defined by this defense of oneself, but with one most significant difference. The defense of oneself entailed by calculative justice is a mere defense of one's position, insofar as it confuses oneself with one's position, as in the village of the Castle, wherein as "nowhere else had K. ever seen one's official position and one's life so intertwined as they were here, so intertwined that it sometimes seemed as though office and life had switched places" (Kafka 1998, 58). As one operates under calculative justice, one is a bureaucrat, with bureaucratic vices: "stinginess, indecision, a calculating mentality", mutually exclusive with magnanimous justice and defined solely by one's powerless position (Blanchot 1982, 67).

In contrast to this bureaucratic self-preservation of a petty egoism, magnanimous justice begins in the justification of one's own existence, as Nietzsche says in his meditation:

> ask yourself why you, the individual, exist, and if you can get no other answer try for once to justify the meaning of your existence as it were *a posteriori* by setting before yourself an aim, a goal, a 'to this end', an exalted and noble 'to this end'. Perish in pursuit of this and only this - I know of no better aim in life than that of perishing, *animae magnae prodigus*, in pursuit of the great and the impossible. (Nietzsche 1997, 112)

This great and impossible goal is the realization of one's concept of a people, what Deleuze and Guatarri refer to as Kafka's virtual community, evidently Nietzschean in inspiration and, of course, untimely (Deleuze and Guattari 1986, 84). It is impossible precisely because it is untimely, an end which is ultimately interminable, or a wellspring of inspiration which is ultimately inexhaustible. Kafka's untimely nature is made clear by his aphorism, "belief in progress doesn't mean belief in progress that has already occurred. That would not require belief" (Kafka

2015, 48). Belief requires the impossible, the counterfactual, a going against one's time, one's upbringing, one's education, and most especially one's education concerning what is considered just, by means of scientific calculation in its modern fashion.

The target of Nietzsche's critique in his meditation, a target which is based in this objective or calculated justice, is modern German education, the same education which, as Kafka writes in his diary, has done Kafka himself "terrible harm" (Kafka 1948, 16). What qualifies modern education as modern, in accordance with its calculative conception of justice, is what Nietzsche deems the "modern call to battle and sacrifice: 'Division of labor! Fall in!'", resulting in an education which makes one smaller and smaller, one's capacity of giving something to humanity less and less (Nietzsche 1997, 99). Nietzsche cites Plato's *Republic* as the exemplary proponent of this division of labor and the supposed *aeterna veritas* of its order, an *aeterna veritas* with a basis in the necessary lie, again calling to mind what the priest tells K. in the cathedral, and the same *aeterna veritas* in which the moderns believe of their system of education (Nietzsche 1997, 119).

Though Kafka has been analyzed in relation to Plato as well as Kant, there is no positive conception of justice attributed to Kafka to be discerned from his works, leaving an inevitable mystification involved in interpreting these works (Margolis 1958, 42). There is, however, a certain essential theme which is highlighted, a theme also emphasized by Deleuze and Guattari - that of chance (Margolis 1958, 41). Margolis points out that Kafka, in contrast to Plato and Kant, sees changes in fortune of one's present conditions as central to a moral disposition, while Deleuze and Guattari go so far as to say that, for Kafka, justice is Chance itself (Deleuze and Guatarri 1986, 49). However, rather than starting from one's present actual conditions, whether this is defined in terms of desire as it is in *Minor Literature*, or in terms of morality as in Margolis, and asking what one's chances are, the same question should be asked within the context of the novels themselves.

What are the chances of being found innocent in *The Trial*? What are the chances of reaching the Castle in *The Castle*? What are the chances of making it in America in *Amerika*? There is little to no chance in any of these cases, and it is here where we must begin. Rather than believing in the eternal truth of institutions such as one's education or even the degree of reality they possess as present actual

conditions, Kafka begins by reproaching these institutions, portraying them in their emphatic *un*reality, figments of imagination they are in the mind of a Plato or a Kant. If, however, it took a mere two minds in order to constitute the lie made into a universal system, our present conception of justice, what are the chances that Kafka's virtual community, his concept of a people, will garner enough import to dismantle this system? Thus far Kafka's critique of conventional justice has been analyzed through its targets, the Kantian theme of duty and the Platonic theme of the division of labor, as well as their interrelations. Further to be elaborated is Nietzsche's magnanimous justice and the role it plays in Kafka's thought.

4. Towards a Magnanimous Justice: Nietzsche

It must be pointed out that chance, much like the definition of justice as the defense of oneself, has two faces. An analysis of one's chances is a calculation of probabilities, a cost-benefit analysis falling very much in line with a bureaucrat's sense of justice, through which possible lines of action are eliminated. On the other hand, chance itself is the unaccountable, the pluriformally irresponsible, the reckless abandon with which the world conducts itself, through which impossibilities *qua impossibilities* are eliminated. In accordance with Nietzsche's magnanimous justice, the latter is the form of chance which one must embody in order to justify one's existence, a justification itself necessary in order to give something to humanity as an exemplum of justice itself, as the rarest of virtues. For the attainment of justice, for Kafka as well as for Nietzsche, is the impossible, but in neither a negative theological nor a psychoanalytic sense. There is neither an eminent justice above instantiations of the just nor an obsessive superego which would remain dissatisfied with any approximation to a just action. Rather, justice is impossible simply because it is precluded by our present actual conditions, our calculative conception of justice, our duties, our division of labor, our separation of the realm of justice from the realm of charity.

The conventional idea of justice is defined by the will to truth, but a will to truth which has now called itself into question, which asks if this justice might simply be a rumor. In fact, Nietzsche's critique of truth in terms of a reductive objectivity in philosophy can be applied equally to justice as it can to truth itself. Justice, like knowledge itself, cannot be attained by reducing or eliminating our affects, but rather "*the more* affects we allow to speak about a matter, *the more*

eyes, different eyes, we know how to bring to bear on one and the same matter, that much more complete will our 'concept' of this matter, our 'objectivity' be" (Nietzsche 1998, 85). This Nietzschean tenet may very well be what Kafka is thinking of when he writes his aphorism, "truth is indivisible and is therefore incapable of recognizing itself; whatever claims to recognize it must therefore be a lie" (Kafka 2015, 80). Due to the terse nature of this aphorism, further elaboration is needed.

Kafka's aphorism can be taken in two senses, which, strangely enough, amount to the same meaning. First, truth can be taken in the negative sense: because truth cannot recognize itself, the lie states a greater truth than truth itself. One can imagine blind justice as indivisible truth, while the poets, for instance, famous for their untruthfulness (from the *Republic* to *Zarathustra*), would be lies. It is the perspective poets convey which amounts to an expression of truth, while the content of what they state is expressly fictional. Second, truth can be taken in its positive sense: because truth is a unified whole, anyone who could recognize it would have to do so divisively, approaching it only from a certain perspective, and therefore, lying. What qualifies a certain perspective as untruthful, however, is its being contradicted not by another perspective, but by truth, which cannot have a perspective due to its inability to recognize itself. This truth without perspective is exactly what Nietzsche critiques as a reductive objectivity, a will-less subject, or "an eye turned in no direction at all" (Nietzsche 1998, 85).

In *Amerika*, Karl experiences this truth as a unified whole in the form of the path back to his uncle's as opposed to the divisive perspectives within Mr. Pollunder's house, "the endless corridors, the chapel, the empty rooms, and the darkness everywhere" (Kafka 2008, 69):

> Karl became clearly conscious of his position in relation to his uncle; he became increasingly uneasy and unwittingly tried to extricate himself from Pollunder's arm, for everything here was hemming him in, whereas the path to his uncle… seemed to him a coherent whole lying before him, empty, smooth, prepared just for him, and beckoning him with a strong voice. Mr. Pollunder's kindness and Mr. Green's awfulness merged, and all he wanted to procure from this smoky room was permission to leave. (Kafka 2008, 71)

Karl has not yet learned that it is actually impossible for him to go back to his uncle's as it is later revealed by Mr. Green's letter. This coherent whole prepared just for him which is impossible to enter is just like the gate in "Before the Law", meant only for the man from the country, yet impenetrable. The path back to Karl's uncle's is defined by Karl's consciousness of his position in relation to his uncle, a position itself defined by his uncle's position as a senator. The division of labor effects the illusion of a unified whole above one's position as an uninhabitable perspective, while the pluralist truth lies rather in the multitude of different perspectives around oneself.

These different perspectives merge terribly, but not contradictorily. The contradiction lies rather in the choice between staying at Mr. Pollunder's or going back to his uncle's, a contradiction in choice which is ultimately illusory. There is, therefore, no contradiction, but rather what Nietzsche refers to in *Beyond Good and Evil* as as the fundamental faith of all metaphysicians, "*the faith in antithetical values*" (Nietzsche 1990, 34), a faith which obliges Karl's uncle to send him away on principle, as principle is the very ground on which his uncle stands (Kafka 2008, 81). Karl's uncle mistakes principle for the justification of his very existence, principles which he himself inherited from above, previously established values based in an antithesis which eliminates possibilities, as a calculative justice.

By contrast, the protagonists of the novels are notably unprincipled, but have set before themselves a goal, a 'to this end', which is impossible in a different sense. The goal of the protagonist in each novel, as opposed to the institution they traverse, is not illusory, but simply reached by a path which one must create, a path which has not been previously established, and which is ultimately endless. Kafka's goal is reached by means of the justification of his existence in the creation of his concept of a people, a magnanimous and just people, but a people which are not themselves justified by Kafka. In opposition to an advancive view of history defined by antithetical values, Kafka's idea of a virtual community does not justify each member of the community (as Karl's uncle is justified by his previously established principles), nor does it even give them laws. Rather, Kafka stands as an untimely exemplum, a writer against his age, just as Spinoza and Nietzsche stand against theirs. For, he knows what it means to believe in progress, as a development of capacities against the inhibition of law, against the no-saying of a faux justice.

Magnanimous justice is defined by a multitude of perspectives, an overthrowing of a universal duty as it is rendered by the division of labor which comes

from above in the form of a reductive objectivity impossible to think, let alone know. Magnanimous justice grants credence to each and every perspective insofar as it is capable of stating its claim, and if one is not capable of this, like the stoker in *Amerika* stating his claim against Schubal, this is due ultimately to the division of labor itself (the stoker cannot repeat his claim made to Karl in the same way to his superiors). If another, then, tries to help one state their claim, as Karl does with the stoker, this again is inhibited by the division of labor, as Karl is forced to stop helping the stoker due to his position in relation to his uncle. Therefore, the first thing to be protested in pursuit of a magnanimous justice is the division of labor, a protest also against one's unconditional duty as that which one inherits and does not create for oneself. By contrast, in setting oneself a goal, these duties and principles one has inherited from one's position are reevaluated, one's capacities are instead put towards one's own creation, much like Kafka's writing as opposed to his career as a bureaucrat.

Within the confines of the division of labor, any attempt to help one can only end in failure, as in *The Castle*, wherein "each new acquaintance" K. makes "only increased his weariness", a weariness which ends up having "done him greater harm than all unfavorable circumstances" (Kafka 1998, 10, 274). These unfavorable circumstances are merely chance as it is conceived as operating outside oneself, a chance which can only be calculated, whereas his weariness is a result of failing to embody chance itself in the justification of his existence, a failure shared by each character of the novels, though through no fault of their own. The failure to justify one's existence is the result of confusing oneself with one's position, confusing previously established values with one's own created values, or attempting to reach one's goal through paths which have already been cleared.

5. Concluding Remarks

If, as Benjamin says, the helpers of Kafka's novels are messengers, the message they bring is that justice cannot be entered into as though it were a justice-in-itself, pre-existing a people, but rather can only be created, and created *with* a people, a position shared by Spinoza and Nietzsche alike (Benjamin 1968, 117). Likewise, the helpers say that the duty they operate under is a merely calculative conception of justice, a bureaucratic sense of justice which can only eliminate

possibilities. This duty which is defined by the division of labor from an unattainable above constitutes an *a priori* guilt, or a pre-established indebtedness which can be paid back only through this duty. This guilt operates under the illusion of choice through which one can be found guilty, limiting one's future to this duty itself. By contrast, in defending oneself in the presence of goodwill and being found innocent, in turn finding all innocent, an open future is created wherein impossibility becomes necessity. As Kafka says, "every stage seems unattainable to those before", while the later stage is, in truth, inevitable (Kafka 2015, 102).

Schopenhauer and Tolstoy, both of whom Kafka was familiar with (Brod 1960, 43-4; Kafka 1948, 39; Kafka 1949, 11, 201), share a view on freedom and necessity, wherein an individual's freedom of action is an illusion of the present, whereas necessity can be seen looking back, perceiving clearly how all the pieces fit together as a unified will, as a revealed order (Tolstoy 2004, 1376). Though this is a necessary view for the latest stage of the prosecutor that is transcendent morality, this is not Kafka's final word on the matter. Kafka, the eternally youthful, the clairvoyant (Brod 1960, 64), the one who suffers a terrible inspiration (Brod 1960, 90), understands that it is rather chaos which is necessity, and that justifying one's existence is precisely a justification of one's own chaos, the very embodiment of chance. To see innocence in the present, a necessary innocence of all, there would be no distinction between will and representation, character and action, inside and outside. This is the project of a justice born from magnanimity, the creation of a people who are just from their *caritas* and thereby just to their core.

Nietzche's imperative at the end of his meditation can thereby be read as Kafka's, perhaps even as Kafka's only imperative:

> He must organize the chaos within him by thinking back to his real needs. His honesty, the strength and truthfulness of his character, must at some time or other rebel against a state of things in which he only repeats what he has heard, learns what is already known, imitates what already exists; he will then begin to grasp that culture can be… a new and improved *physis*, without inner and outer, without dissimulation and convention, culture as a unanimity of life, thought, appearance and will (Nietzsche 1997, 123).

This imperative requires the aforementioned untimely belief in progress, a belief in nature (*physis*) as opposed to law (*nomos*), a natural ethics as opposed to a transcendent morality, a belief in values immanent to life as opposed to a judgment from values grounded above life, a finding-innocent of life itself. It is through this imperative that we should read Kafka's aphorism 109, a conversation between two unnamed characters on the necessity of belief and life – the necessity of belief *in* life, insofar as we do, necessarily, live:

> "It cannot be claimed that we are lacking in belief. The mere fact of our being alive is an inexhaustible font of belief." "The fact of our being alive a font of belief? But what else can we do but live?" "It's in that 'what else' that the immense force of belief resides: it is the exclusion that gives it its form." (Kafka 2015, 109)

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