

Astral Legal Justice:
Between Law's Poetry and Justice's Dance

ABSTRACT:

In this article, I build on my recent conceptions of law as poetry and of justice as dance by articulating three new conceptions of the relationship between law and justice. In the first, "poetry-based-justice," justice consists of a rigid choreography to a kind of musical recitation of the law's poetry. In the second, "dancing-based-law," justice consists of spontaneous, freely-improvised movement patterns that the poetry of the law tries to capture in a kind of musical notation. And in the third, "reciprocal-legal-justice," justice and law consist of a reciprocally-determining artistic collaboration between the democratic dancing masses and the aristocratic poetizing elites. Given that each of which predominates in one of three types of community, I then present a reclassification of right-leaning, centrist, and leftist societies as dominated by "literalist," "kinetic," and "mutualist" communities (respectively), and offer suggestions for legislators and activists working in each type. In conclusion, law and justice, qua poetry and dance, become more flexible, inclusive, and open to creative improvising and collaboration, a new form that I name, after Astraea, Greek goddess of divine justice, "astral legal justice."

In the popular imagination, the law is only part of a community, dominated by a professional caste to which most are effectively denied entry, and yet it has the sole power to determine to what counts as justice therein. From this perspective, justice typically bifurcates into "actual" and "ideal" form of justice. Though the latter type is often considered divine, it is also, paradoxically, regarded as powerless in this world. Whereas actual law, the former type, the province of the human law, is typically regarded as possessing all the power. Given this perception, it is unsurprising that most citizens are currently disengaged from the law, and disenchanted with the only type of justice that they perceive as making a difference in the world.

If such commonsensical beliefs regarding the law and justice were accurate, then we would likely do well to make our peace with them, resigning ourselves to the disappointing fall from our dreams, and seeking alternate ways of changing the world. Though this comportment of resignation is sadly dominant today in the U.S. (and elsewhere), the beliefs that buttress it are in fact mistaken. Or, at most, they are unnecessarily self-fulfilling prophecies. It was to undermine

these counterproductive beliefs, and suggest more empowering alternatives, that I have elsewhere articulated new conceptions of law as poetry, and of justice as dance.¹

Since the present article builds on those two conceptions, my first section summarizes them. My second section considers three ways of understanding the relationship between law-as-poetry and justice-as-dance, namely (1) a rigid choreography of justice based on poetic legal lyrics, (2) an improvisatory dance retroactively encoded in legal poetry, and (3) a flexible, improvisation-incorporating dance generated by an egalitarian collaboration between the dancing democratic masses and the poetizing aristocratic elite. Based on a classification of communities in terms of which of these three relationships are dominant therein (namely “literalist,” “kinetic,” and “mutualist”), my third section offers one or two primary suggestions for legislators and activists working to promote flourishing in each type of community. And my conclusion derives a new concept of legal justice that is more flexible, inclusive, and open to creative improvising and collaboration, which I call “astral legal justice.”

I. Revisiting Law-Poetry and Justice-Dance

Readers unfamiliar with my recent conceptions of law as poetry and justice as dance may be skeptical of the very idea of linking either law or justice to the arts. And for some, even if this linkage were proven legitimate, doubts might remain about the point of making it. Above all, the point is that the U.S. is experiencing a crisis of mass nonparticipation in the law and politics, and these two conceptions are strategic interventions therein. One way of framing this crisis is that wide rifts have opened between the three, largely-overlapping pairs of subcommunities, as follows: (1) advocates of legal justice versus social justice activists, (2) the minority of the U.S.

¹ See Hall 2021a and 2021b.

population that exercises significant agency in the legal-judicial system versus the majority that are increasingly disenchanted and clamoring for radical change external to that system, and (3) the few who find creative expression in politics versus the many who find creative expression in (if anywhere) the arts. The first subcommunity in each of these three pairs is dominated by older, wealthier, well-networked, cis-het able-bodied white men, while the second subcommunity in each of these pairs is dominated by younger, poorer, queer folks and women. Perhaps, then, the overlap among these three rifts is not coincidental, because all three result from a homogenous minority having too much control over a system that is recognized as unjust by folks across the political spectrum.

If we are to reform or replace that system, preserving what is left of U.S. democracy (or creating it for the first time), then we who mentor millennials and teach generation Z must recapture the portions of the battlefield that are the law and justice. For too long now, social justice advocates have ceded that ground to those with less progressive values, losing so much power that precious little remains to pass to our students. They are not fooled when we offer knowledge divorced from power, hawking intellectual bric-a-brac, instead of energizing souls. Fortunately, their souls are already energized by the arts, including popular dance and poetry (especially as lyrics to rap and other popular music). Thus, the connections I have made between poetry and the law, and dance and justice, can function as conduits for the soul-energy to flow into the three rifts of our political crisis. As my fellow Birmingham native Angela Davis recently observed, “resistance can be fun.”² To this, I add that resistance can also be as beautifully inspiring as poetry and dance, as I will now summarize in my first section.

² See <https://www.al.com/news/2019/02/resistance-can-be-fun-angela-davis-speaks-in-alabama-after-award-snub.html>.

In all three central traditions in the history of legal philosophy, at least one major text conceptualizes the law as a kind of poetry. First, the oldest legal philosophical tradition, natural law theory, presents the law as, on the one hand, metaphysically divine; but on the other hand, as historically dependent on its expression via poets viewed as prophets. Second, the name of natural law's primary historical competitor, "positive" law, already suggest that this theory "posits" imaginative individual literary creation as the sole fount of human law (given these terms' derivation from the Greek *poesis*, meaning "poetry"). And finally, the newer schools of critical legal theory (including critical legal studies, critical race theory, and feminist legal theory) explore the historical calcification of poetic law into a kind of prose prison, yet vulnerable to a new poetic liberation.

At the intersection, historically and conceptually, of these three theories, I identify two texts which bridge those theories by implicitly offering new philosophies of law. In 1840, both Volume 2 of Alexis de Tocqueville's *Democracy in America* and Percy Bysshe Shelley's "A Defense of Poetry" were published. Despite this historical overlap, though, Shelley's text bridges one pre-nineteenth century theory (natural law) and one nineteenth-century theory (positive law), while Tocqueville bridges that nineteenth-century theory and a for-him future theory (critical legal theory). It is precisely in this counterintuitive combination of historical simultaneity and conceptual juxtaposition that I identify an opportunity to bridge together Shelley and Tocqueville's already-bridging theories. More precisely, I have hybridized them into what I call the "natural aristo-poetic counterforce" theory of law as poetry.

According to this new conception, law is the poetry of the virtuous, composed on the scaffolding of nature, and essentially oppositional, including opposition to (a) existing laws, (b) some literal poetry, (c) those misinterpreted as virtuous, and (d) aspects of nature that undermine

community flourishing. To elaborate, by “poetry of the virtuous,” I mean the most virtue-facilitating poetic words and ideas of the most virtuous people; and by “the scaffolding of nature,” I mean that nature functions as a template, or weak basis, on which to improvise.

In sum, law is something made by the best people in the community, which creatively discovers and tracks the natural scientific laws that necessarily structure human communities, and which thereby resists various destructive forces in the community. The latter forces include (a) older laws that perpetuate the injustices and privileges which they created in the past, (b) oligarchical persons and institutions masquerading as a virtuous aristocracy, and (c) human and nonhuman natural phenomena (such as selfishness and natural disasters) that otherwise run roughshod over the society.

For a concrete example, the Civil Rights Act of 1964 was the creative act of heroic civil rights activists, erected on the natural equality among members of groups defined as biological races, in order to challenge (a) various state and local Jim Crow laws, (b) poetic cultural artefacts (such as blackface minstrel performances, and the film *Birth of a Nation*), (c) the (presumed aristocratic) white supremacist oligarchy, and (d) the sociological and psychological inertia of institutional racism.

For a figurative example, Milton’s *Paradise Lost* was the creative act of a heroically-defiant poet, erected on the Enlightenment’s scientific conception of human equality (across class, and to a certain degree gender, though arguably not race), in order to challenge (a) laws such as those protecting regressive monarchy and marriage, (b) the literal poems of rival poets who defended regressive monarchy and marriage laws, (c) England’s vicious literal oligarchies (including in the House of Lords), and (d) the natural-scientific forces propping up that oligarchic regime.

Just as the history of legal philosophy is surprisingly open to the law's poetry, so the history of the philosophy of justice also includes many conceptions of justice compatible with the notion of justice as (figurative or even literal) dance. In these conceptions, justice is no less ethical than political, thus Agnes Heller's term for them, "ethical-political conceptions."³ One implication of this approach is that everything relevant for ethical justice becomes relevant for political justice, too—including virtues, relationships, and embodiment. And all three of the latter connect justice to dance. In this spirit, I reimagined four such historical conceptions, in Plato, Aristotle, Alfarabi, and Iris Marion Young, as choreographed duets between ethics and politics as dance partners. I termed these reimagined conceptions, improvising on Heller, "ethico-political choreographies of justice." I will now summarize these four choreographies.

First, Plato in the *Republic* and *Phaedrus* conceives the just community as a Dionysian choral dance of chariot souls, winged by the ethical pedagogy of love.⁴ Second, Aristotle's *Nicomachean Ethics* valorizes (what I term) "equitable-justice" over "lawful-justice," the former being understood as a beautiful friendship between citizen and city.⁵ Third, Alfarabi's *Virtuous Community* presents justice as a tightrope-dance in which the imagination regulates the body's temperature, in order to establish soul's temperance, in order to sustain the community's justice.⁶ And fourth, Iris Marion Young dancingly reimagines humans as actors positioned in fluidly-moving groups.

³ See Heller 1990.

⁴ See Plato 1988 and Plato 1995.

⁵ See Aristotle 2002.

⁶ See Alfarabi 1998.

Buttressed by these four historical choreographies, I then choreographed a conceptual duet between my dancing-with method of interpretation and my conception of social justice as organismic empowerment. The resulting dance is a new conception of justice as dance. I define “dancing justice” as the dynamic equilibrium sustained by a critical mass of a community’s members comporting themselves like social dancers. By “social dancers” here, I mean people committed to consistent participation in social dance events. Typically held in the U.S. at bars, restaurants, or professional dance studios/schools, in metropolitan areas and college communities, these events are exceptionally pluralistic in terms of class, education, race, gender, religion, politics, etc. As such, they tend to foster groups that are surprisingly representative of their surrounding communities. And by “critical mass,” I intend an allusion to Black sociologist Patricia Hill Collins’ claim that sustainable progressive politics neither requires the participation of all or most of a community, nor can be achieved by an isolated leader, but instead involves an (indeterminate) percentage of like-minded people in the community working in concert.⁷ In sum, dancing justice happens when a critical portion of society dances their lives.

Put in terms of the abovementioned four historical choreographies that prefigure dancing justice, the latter’s justice-dancers must do four things. First, like Plato’s winged chariot souls, these justice-dancers must master an erotic ethics of self-discipline in order to gain the full benefits of moving through politicized space. Second, like Aristotle’s dancingly-beautiful friends of the city, justice-dancers must go beyond what public laws require, by treating all the dancers equitably and thereby being a good friend to the community. Third, like Alfarabi’s tightrope-dancers of the cool, justice-dancers must achieve this Aristotelian friendship of balanced coolness through their cool bodies supporting cool souls supporting a calmly just community.

⁷ See Collins 1998, 242, 243.

Finally, like Young's dancingly-reimagined humans, these justice-dancers must sustain this community by reimagining humans as actors positioned in fluidly-moving groups.

Having completed the above analyses, something seemed to be missing, namely how these conceptions of law-poetry and justice-dance might be related. In part, this is because the traditional conceptions of law and justice are now so old, well-established, and normally taken for granted, that we have perhaps become oblivious to the fact that they tend to assume one way that law and justice are and should be related. In fact, one could even argue that this assumed relationship, like the one Judith Butler deconstructs between traditional concepts of "sex" and "gender," is the hidden cause and justification of these traditional concepts.⁸ Put more concretely, perhaps the law has been predominantly conceived as divinely-transcendent, rational, and objective precisely in order to allow a privileged elite to control (from above) the way that a community is forced to conceive of justice.

In other words, if the law is recognized for its inherent creativity and flexibility, then it might become more malleable to being challenged (from below) by conceptions of justice that reject the existing assemblage of laws in a community. Thus, it is ultimately insufficient to merely retheorize law or justice separately from each other, because in that case one encounters opposition not merely from explicitly competing conceptions of one concept, but also from the merely assumed and unspoken complement of the other concept. That is, scholars of law might reject the conception of law as poetry because it conflicts with what they assume is a consensus view of justice, and scholars of justice might reject the concept of justice as dance because it conflicts with what they assume is a consensus view of law. Until both partners, law and justice,

⁸ See Butler 2006.

are spotlighted by scare quotes—allowed the flexibility to move and dance together in new ways—then neither will be fully free for theory, let alone theory-dominated practice.

II. Three Relationships between Law-Poetry and Justice-Dance

Having thus rehearsed my conceptions of law as poetry and justice as dance, or “law-poetry” and “dance-justice” for short, and with the stakes of rethinking their potential relationships thus clarified, I now elaborate three such ways of relating them for a given community. First, dance-justice could be seen as a rigid choreography based on the musical recitation of law-poetry, in a conception that I will call “poetry-based-justice.” Second, moving in the opposite direction, dance-justice could be seen as the free, spontaneous improvised patterns of movement that law-poetry’s musical notation attempts to capture and preserve, a conception that I call “dancing-based-law.” And third, law-poetry and dance-justice could be seen as a reciprocally-determining artistic collaboration between the dancing democratic masses and the poetizing aristocratic elites, which I call “reciprocal-legal-justice.”

In the “poetry-based-justice” conception of the law-justice relationship, a community structures its practices around an arrangement of words that proclaims, in an aesthetically-satisfying way, the truths that should be dominant in the community. This is not to say that each word and phrase is (or is intended to be) beautiful, but rather that the overall composition manifests mindfulness regarding its aesthetic value (more precisely, various possible aesthetic values, examples of which include memorability, intuitiveness, ease of repetition, gravitas, etc.). All such values facilitate the law-poetry’s pervasiveness, and thereby the law’s effectiveness in promoting dance-justice practices that conform to law-poetry.

This poetry-based-justice relationship appears predominant, for example, in theocratic societies such as ancient Israel and the medieval Muslim empire. The sacred poetic texts of these societies (the Ten Commandments and the Qur'an, respectively) form the basis of both secular and religious laws. Moreover, these sacred texts are ritually performed, recited at events that mark individual and community milestones (such as religious services, coming-of-age ceremonies, marriages, and funerals). Preparation for such events, finally, involves explicit trained in elaborately-choreographed movements (literal and figurative), which shape and position community bodies in justice-dances that aligns with the flow of the law-poetry.

In the second conception of the law-justice relationship, "dancing-based-law," law-poetry is a retroactive, backward-looking attempt to select, formalize and maintain the subset of spontaneously-improvised community practices of dance-justice that have been valorized for their aesthetic values. This does not mean that law-poetry simply cherry-picks dance-justice practices for their beauty, but rather that it preserves (or destroys) those practices that somehow stand out, appearing more intensely and thus more easily perceived and distinguished. Put differently, law-poetry attempts to make permanent (or to extinguish) those among the originally-spontaneous dance-justice practices that the community finds sufficiently aesthetically pleasing (or abhorrent).

This dancing-based-law relationship is admittedly difficult to find in actual historical communities, but it can arguably be found in at least certain interpretations of radical (and arguably Romantic) political philosophy, such as Jean-Jacques Rousseau's *The Social Contract* and Enrique Dussel's *Philosophy of Liberation*.⁹ Such discourses do not pretend to operate in a vacuum, instead giving due respect to the common people and community practices that inspired

⁹ See Rousseau 2002 and Dussel 2003.

them, while nevertheless articulating radical new laws. That is, these constitutors compose their law-poetry in the wake of, and surrounded by, the ongoing justice-dances that preceded them, the future evolution of which dances they hope merely to support, and never to totally control. For an example of this spirit, Thomas Jefferson, according to his opponents in the *Federalist Papers*, argued that all U.S. laws should be rewritten every 19 years, to be maximally responsive to the needs and desires of each new generation (instead of holding them back with strictures that benefited their elders but might restrict and oppress the youth).¹⁰

Finally, in the “reciprocal-legal-justice” relationship, instead of basing the elites’ law-poetry on the masses’ justice-dance, or vice versa, there is a constant agonism—*nota bene*, *not* antagonism—between the law and justice, a creative struggle between poetry and dance that sustains a dynamic artistic equilibrium. To repeat, I am not talking about a hostile antagonism or struggle. The image here is not so much fighters in the ring, but jazz musicians in a jam session. Each artist (law-poet or justice-dancer) is inspired by the beauty of the work of the other medium’s artist to try to match, complement, and further inspire the other’s artistry with their own. In other words, law-poets find inspiration in certain appealing movements by justice-dancers, while justice-dancing masses create new practices in part by improvising on certain appealing lines composed by law-poets.

This reciprocal-legal-justice relationship is reminiscent of the societies that possess what Aristotle calls a “mixed” or “constitutional” form of government, with justice-dancers corresponding to democracy’s masses, and law-poets corresponding to aristocracy’s elite. However, unlike Aristotle’s vision of a self-limiting competition between the parts of government (as captured in the U.S. constitutional rhetoric of “checks and balances”), law-poets

¹⁰ See Hamilton et. al. 2005, 335.

and justice-dancers in this relationship affirm and valorize their differences from each other. In Aristotle's terms, law-poetry does not merely rely on justice-dance to prevent its aristocracy from degenerating into oligarchy, nor does justice-dance merely rely on the law-poetry to prevent its democracy from descending into anarchy (in Aristotle's pejorative sense). Rather, each art-form seeks to share the social realm with its beautiful other, in a celebration of the necessary plurality of their artistry.

To summarize these three conceptions of the law-justice relationship, whereas poetry-based-justice represents Western justice's historical reality and ideology, and justice-based-law represents a revolutionary ideal, reciprocal-legal-justice represents a reformist middle way. For clarity's sake, I will call any community in which the poetry-based-justice orientation predominates "literalist," any community in which the dancing-based law relationship predominates "kinetic," and any community in which the reciprocal-legal-justice relationship dominates "mutualist."

This can also be expressed in narrative form. First, actual (or institutionalized) justice, for most of Western history, amounts to poetry-based-justice, because the latter is advocated by the dominant ideologies as the actual, ideal, and only sustainable relationship. There is considerable evidence, though, that the best standards of justice actively evolve with a community, improvising on the community's innovations and self-transformative demographics, which then guide the writing of new laws. Second, inspired by this more democratic vision, and tapping into its enormous powers for inspiring the masses, utopian dreams abound, championing dancing-based-laws. These revolutionary dreamers include political philosophers, poets, and activists, expressing themselves variously in speculative fiction, treatises, manifestos and declarations. And third, so abundant is this dreaming power, and so strong the commitment to contain and

weaken it, that history overflows with political orders reluctantly coming to the diplomatic table (after battlefield ceasefire) to struggle with democratic powers whose anarchic potential they posit as the worst of all political nightmares.

Perhaps, given this historical reframing, some readers may object that these three poetry-dancing conceptions, and the three types of communities defined by which conception dominates, ultimately do not differ meaningfully from the commonsensical conceptions of law and justice and their implied relationship. Perhaps these poetry-dancing conceptions are similar enough to the phenomena of theocracy, radical romantic political philosophy, and Aristotelian mixed government (respectively), that they tell us nothing new or actionable about the law-justice relationship. On the contrary, I identify two primary differences.

First, all three poetry-dance conceptions acknowledge the necessity of artistry and creativity for the law-justice relationship. For a contrast case, in a traditional analysis of a right-leaning society, the law is presented as a potentially-divine, presumptively rational and objectively valid system, which controls what counts as justice for the otherwise merely human or animalistic, presumptively irrational and subjectively-chaotic masses. When such societies are reinterpreted as a “literalist community,” however, their legislators no longer appear more rational than their masses, nor less artful, subjective, and improvisational in their lawmaking than the common people have the potential to be, in the latter’s role as creators of grassroots practices. Crucially, this entails that right-leaning societies cannot rightly be defended as more “natural” than centrist or left-leaning communities. (Nor are right-leaning societies more traditional, since each type of community possesses and is influenced by its traditions).

A second difference in these poetic-dancing conceptions is indicated by the term “community” appearing where traditional conceptions would typically use “society” instead.

This choice derives from the recognition that political collectives come in layers, various subcommunities nested inside larger ones, extending today to nation-states and the international associations and organizations that straddle them. For example, a poet-legislator might a member of the government of a city like Chicago, arguably kinetic, but situated in a more “literalist” state (Illinois), situated in a country that in times past was closer to mutualist, situated in a perennially literalist global order. In this context, law-poets and justice-dancers at each level find themselves positioned differently from their counterparts at other levels “below” and “above” them.

As such, these poetic and dancing artists are forced to contend, not only with their other-medium artists at their own level (such as city poets and city dancers), but also with same- and other-medium artists operating at various levels, resulting in various kinds of responsibility (from below) and control (from above) over the artistry they co-create at their own level. In short, this poetic-dancing conception of nested heterogeneous communities and artists is more nuanced, flexible, and sophisticated than the one-dimensional, commonsense view of right-leaning, centrist, and left-leaning societies.

III. Strategies for Legislators and Activists in Three Types of Community

Whatever one’s political affiliation, and thereby one’s value-judgments on the virtues of these three types, it is undeniable that all three types are predominant in many communities today, which are populated by well-meaning individuals who are unwilling or unable to choose a different type of community in which to promote flourishing. Accordingly, for the remainder of this article I will eschew (explicit) judgement on their relative merits (although such judgment can probably be inferred from my descriptions), confining myself to just one or two primary

suggestions for legislators and activists seeking to promote flourishing in each type of community.

In a literalist community, given the overwhelming power of the law to determine what is just, there is a disproportionate power in the hands of legislators, almost unopposable short of revolutionary change. Since a flourishing-seeking legislator cannot singlehandedly reduce the power of the law or buttress extralegal judicial counterforces, the most important objective might be to keep the written laws minimal and vague. If justice is identified with the law, then nothing that in tension with the law can be just, but since evolving individuals and communities inevitably create tension with existing laws, then the fewer laws there are, the more room there is for change and growth that cannot be disparaged as unjust (*qua* extralegal). As a second objective, since law is in its structure universal, and the matter of bodies (*pace* Aristotle) is what individuates or particularizes people, then human bodily difference (including on the axes of race, gender, sex, and disability), then legislators under literalism should be especially mindful of embodiment in their legislation, including the ways it might inadvertently increase the vulnerability and disempowerment of those embodied differently from the majority and the elite.

As for activists in literalist regimes, their situation is obviously bleak, and those limited resources mean that they should avoid putting unrealistic pressure on themselves to change a situation hard-wired against extralegal justice. What energy can be accessed, though, should perhaps be directed at achieving the next-best thing to having formal legislative power of their own. To wit, they should attempt to identify and uplift social choreographers among the people, charismatic figures who can channel their magnetism into either obtaining influential public office and/or becoming highly-visible agitators for more empowering laws. In other words, for a community that divinizes laws and lawmakers, the best extralegal method of challenging legal

justice is to marshal at least the appearance of divine power in a separate locus of the community.

Turning to kinetic societies, their flourishing-seeking legislators, being in this context weaker to define and promote justice via the law (compared to extralegal justice activists), they should above all resist the temptation to recuperate power by seeking popularity with those activists. This is not because seeking popularity is a sign of weakness, nor that courting the favor of the masses is inherently vicious, but rather that doing so in a kinetic community abandons the crucial counterforce that the law can provide to the potential tyranny of the majority. This counterforce need not be conceived as anti-populist or anti-democratic, however, as has often been the case (notably including the *Federalist Papers*). My alternate suggestion is that legislators in kinetic societies should use the law to advocate for justice for future generations, defending that temporal (indefinitely, potentially infinitely, large) majority from the shortsighted selfishness of the presently-living majority.

As for the extralegal justice activists, here they are in their maximal power, and should be mindful not only that they far overpower the law and its legislators, but also that their power is drastically more diffuse/distributed than the power of legislators in literalist societies. Put simply, the power of the activists, being divided among so many bodies, is much more difficult to control or restrain individually. If this power is being deployed unjustly, then, what is an activist's best recourse? My suggestion is that each activist should attempt to embody and perform their power in as eccentric and self-expressive way as possible, thus creating an internal heterogeneity among the power mass. Put differently, if the greatest threat to social justice is homogenous conformity

(as has often been suggested, perhaps most famously by Arendt), then social justice activists when in power should pursue their own deviance, for everyone's sake.¹¹

Finally, in a mutualist community, the legislators find themselves the numerical minority in at least a *détente*, if not an alliance, with the majority. This means that, although the legislators as a group has exactly as much power as the activists as a group, the individual legislator has much more power than the individual activist. (This is something like the dynamic between the House of Representatives and the Senate). The greatest temptation for legislators in this situation will be to assume and act from a position of classist superiority, seeing themselves as deserving of their greater average power and attempting to find ways to use it to subvert the overall power of the activists (effectively transforming the mutualist community into a literalist one). One concrete way to fight this classism is to be mindful of the centrality of the phenomenon of translation during negotiations between a more powerful minority and the majority. More specifically, legislators should temper their speech in the awareness that unfiltered and spontaneous communication will likely be heard differently than intended.

As for activists in a mutualist community, the key to success is a complementary tendency to the one I just noted. To wit, though overall the two groups (legislators and activists) have equal power of justice in such a community, and though on average the individual legislator has more power than the individual activist, nevertheless in terms of raw numbers, the activists still outnumber the legislators. Inevitably, there will thus be a tendency for the legislators to feel threatened and perhaps even persecuted. This is not to say that this threat is justified, nor that activists have an ethical or political obligation to reassure the legislators for their sake. I would content, however, that it is also in the best interest of the activists themselves, and the

¹¹ Arendt 2006.

community as a whole, for the legislators to feel more secure, and therefore be willing to approach the diplomatic table in good faith, focusing less on the conditions for the perpetuation of their power, and more on the best uses for the people of the power that they share with activist majority.

IV. Conclusion

One important result of the foregoing analyses is that is that legal justice, qua poetic dance, becomes more inclusive, flexible, and open to creative improvisational collaboration than it appears by the lights of present-day common sense. I begin with the law, and with the attribute of inclusiveness, and then consider justice and flexibility, before ending with legal justice and creative improvisational collaboration.

Despite what the commonsensical notion of law suggests, most of the many (metaphorical) doors to the law are not closed to the masses, let alone locked. Most of us, though, only recognize its most famous door—otherwise known as law-school—which is, admittedly, not only steel-reinforced, but also equipped with three deadbolts and a state-of-the-art security system. One of the founding texts of critical legal theory, Duncan Kennedy's *Legal Education and the Reproduction of Hierarchy*, provides a thorough account of the injustices of our law school system, from which our people (both without and within law school) justifiably feel alienated.¹² More importantly, he suggests practical solutions for transforming that system, and thereby the profession and the communities it serves. In short, by way of poetry, the law becomes more inclusive, with every poet a potential legislator.

¹² See Kennedy 2007.

As for commonsensical justice, it is right to recognize, via the distinction between actual and ideal justice, that the latter does indeed partake of a kind of divinity. That is, at least in the brilliant beauty of its manifestations, ideal justice is in truth much more powerful than its actual justice counterpart. Ideal justice's power, though, does not manifest in the same ways or places as the actual kind. Put in mythological terms, the Greeks had two goddesses of justice: the more well-known Dike (goddess of human justice) and the older goddess of divine justice, named Astraea. Given that Astraea's jurisdiction is the divine, her power is doubly connected to myth, and thereby to dance as a medium of mythological production (as with the Dionysian tragic chorus). This divine justice is thus a kind of celestial and underground performance, intermittently descending from heaven like lightning, and breaking the surface of the earth and its wooden stages, to radically reshape mortal laws. In short, by way of dance, justice becomes more flexible, with every dancer a potential a potential activist.

Finally, with so much artistry thus infused into a more inclusive law and more flexible justice, one could reasonably hope that this larger and more representative group of legislators and this larger and more strategically effective group of activists, would be willing and able to inaugurate a new kind of legal justice. Recalling the above discussion of Astraea, I will tentatively christen this new form "astral" legal justice. Astral legal justice is a starry bright, celestially beautiful poetic dance, which invisibly permeates and draws from the community. It is a collective poem written by the people, forming the lyrics for a new kind of popular dance music, played and performed in both private and public spaces. In short, this astral legal justice is an endlessly creative improvisational collaboration, and its potential cocreators are every poet and dancer in the community.

To borrow the poetry of Whitman, not only may we all “contribute a verse” to this dance-poetry of legal justice, but we all can also dance such new dances to the music of that poetry that our poets will be inspired to periodically revise and even rewrite the law. Astral legal justice means reaching the stars of divine justice while refusing to give up the legal ground. It starts with the people, in the ways that our dancers move, to the infectious flow of our poets, cocreating the music that unjust laws are powerless to resist, transforming those laws into joyful new poetry worthy of flourishing dance.

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