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DID WE REALLY GET RID OF COMMANDS? THOUGHTS ON A THEME FROM ELIAS CANETTI☆

ABSTRACT. Neither in contemporary sociology nor in legal theory is much attention paid to the theoretical object of commands. This paper explores some features of commands that tend to remain largely invisible in social action, as well as largely under-theorized in the scholarly literature. The analysis draws on early reflection by Elias Canetti and tries to clarify the dynamics of the relationship between law and commands from a sociological perspective. The main claim is that command cannot be reduced to a linguistic entity, but has to be considered in the more complex frame of a direct relationship among subjects and their bodies within a shared space. Explanation of commands is made even more difficult by the fact that they take place in a space that is located ambiguously in between the realm of the subjective and that of the objective, in between passions and institutions.

KEY WORDS: authority, body, command, legitimation, power

INTRODUCTION

At first sight, researching on commands may seem outdated today. Contemporary Western society has been characterized by some scholars as 'post-traditional'[1] in the sense that, *inter alia*, it frees the individual from traditional coercive practices and affiliations. Others have spoken of 'liquid modernity',[2] which endows individuals with greater possibilities of avoiding each other and, therefore, subtracting themselves from those direct and personal contacts that are perceived as oppressive and intolerable. According to these images, nowadays it

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[1] A. Giddens, *Modernity and Self-Identity. Self and Society in the Late Modern Age* (Cambridge: Polity Press, 1991).

[2] Z. Bauman, *Liquid Modernity* (Cambridge: Polity Press, 2000).

is easier than it ever was in the past to escape from normative
engagements that are felt to be too complex or too authoritarian.

Of course, contemporary social theorists recognize that today's
society still retains its own normative patterns and that we are far
from achieving absolute freedom or liberation. Nonetheless, the
overall picture they draw is one in which the experience of com-
mand, that is the experience of giving and receiving *overt* and
personal imperative orders, plays a very marginal role. In a time of
liquid modernity, the experience of command apparently tends to
become 'sectorialized', restricted and confined within specific
organizations, such as the army and the police, or within rigidly
hierarchized workplaces, such as the economic enterprise – espe-
cially at its lowest levels. It is generally assumed that commands
are, so to speak, 'structurally predisposed': I know from whom I
can receive a command, and, above all, I know the limits beyond
which I can refuse to obey. One would say: I know my rights.

Mechanisms of structural predisposition are assumed to guarantee
the social circumscription of commands, constraining them within
specific purpose-oriented contexts, subjecting them to well-defined
limits. What is this structural predisposition made of? The quickest
answer is: institutions. It is the institutionalized aspect of social
interaction that allows for the creation of expectations, statuses, and
rules regarding rights and obligations. Law is often seen as a tool for
imposing forms of regulation on the use of force, power and com-
mand. Hence, the most accepted representation is one that contrasts
rules and arbitrariness, and portrays rules as imposing constraints
upon arbitrariness. Then, at a second stage, commands are rehabil-
itated within law, insofar as they are *means* for enforcing rules and
making them work duly.

In legal scholarship, the command theory of law is remembered as
a failure or is looked at as an archeological curiosity. John Austin's
project to reduce all law to some form of 'command backed by the
threat of force' – as he expressed himself in *The Province of Juris-
prudence Determined*[3] – has been definitively rejected during the 20th
Century, not only on the basis of H.L.A. Hart's direct criticism, but
also in the light of other alternative reflections, such as L.L. Fuller's.
Whereas Hart claimed that law works through general directives and
not through individual commands, and that it does not need

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[3] J. Austin, in David Campbell and Philip Thomas, eds, *The Province of
Jurisprudence Determined* (1832) (Aldershot: Brookfield, USA: Dartmouth, 1998).

sanctions, Fuller contended that what constitutes law as such are the features of purposiveness and commitment, rather than those of imposition and force.[4]

This is, briefly, the most common interpretive framework for commands. Upon closer examination, however, we find that the relationship between law and command is a much more complex and ambiguous one. Indeed, the aim of this paper is to argue for a different – and to some extent even opposite – image of what a command is and how it works *vis-à-vis* the domain of the legal and, specifically, how the 'command-machine' bypasses and escapes regulations and limitations that are imposed upon it. Commands tend to become pervasive, assuming different shapes, some of which are less visible but not necessarily less effective. This is not to say that law *is* command *tout court*, but, rather, that the object 'command' should be more accurately positioned.

There is much more to commands than the mere logic of commands, i.e., the logic of imperatives and obligations. The logic of imperatives is an important and well-explored field, but it does not fill the actual social life of commands. The latter is a relatively neglected field, with the notable exception of the second Wittgenstein's approach to following orders.[5] Accordingly, the task here is to draw our socio-legal attention to the way commands *do* work, rather than upon the way they *should* work or the way they are *supposed to* work. Two arguments can be advanced.

First, there is a non-mediated and non-symbolic aspect in the relationship of command. The hypothesis under consideration here is that command is rooted in the direct and immediate action and reaction of bodies, long before any normative abstract scheme. Command prioritizes action over norm. This does not mean that commands are not or cannot be symbolized. Indeed, many of them – maybe even most of them – are. But we could not understand the

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[4] H.L.A. Hart, *The Concept of Law* (Oxford: Oxford University Press, 1961); L.L. Fuller, *The Morality of Law* (New Haven: Yale University Press, 1964).

[5] An anonymous editorial reviewer rightly reminded me the fundamental insights by Wittgenstein on the eminently pragmatic nature of the *end* of interpretation: language polysemy is always cut off by the need to act contextually and 'go on' with the carrying out of rules and orders. This is part of the philosopher's more general criticism of representationalism. See L. Wittgenstein, *The Blue And Brown Books* (New York: Harper & Row, 1960), 33–34. In this paper I attempt to criticize only the traditional, representational conception of language, by showing its incapacity to deal with commands.

working of commands properly if we skipped their embodied and pre-symbolic root.

In addressing the theme of the pre-symbolic aspect of command and its sociological, political and legal implications, we will mainly draw insights from three authors: Elias Canetti, Pierre Bourdieu, and Giorgio Agamben. Canetti will be considered in closest detail.[6] Bourdieu's concept of *habitus* as socialized body, resulting from the inscription of action dispositions within the human body, and Agamben's recent analysis of the problematic interaction of the two legal forms of *potestas* and *auctoritas*, will also prove relevant to our topic.[7]

Second, society is constitutively heterogeneous. Heterogeneous elements are woven together in a *continuum* as they get involved in social processes. Heterogeneity is not simply social diversity, but deep diversity of agents: cognitive, moral and aesthetic, and also onto-logical diversity. Reflections along this line of research include au-thors such as Michel Foucault, and his description of government as an accumulation and disposition of 'men and things'; Gilles Deleuze and Félix Guattari, and remarkably their concept of 'machine' as the dynamic becoming of 'mechanisms'; and, more recently, Bruno La-tour, with his idea – critiquing social constructivism – that a satis-factory description of society must account for the interplay of human and non-human actors (from microbes to voice), and must overcome the social/natural dualism.[8]

To sum up, the hypothesis we are going to explore is that com-mands should be observed in the framework of an *immediate conti-nuity of heterogeneous elements*, not all of which reducible to a rational-normative scheme, acting in the social field.

To begin with, we should ask ourselves what precisely is the mechanism that enacts or guarantees what we have called 'structural predisposition' and 'social circumscription' of commands. In a

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[6] E. Canetti, *Crowds and Power* (1960), trans. by Carol Stewart (New York: Seabury Press, 1978).

[7] P. Bourdieu, *The Logic of Practice* (1980) (Cambridge: Polity Press, 1990); G. Agamben, *State of Exception* (2003), trans. by Kevin Attell (Chicago: University of Chicago Press, 2005).

[8] M. Foucault ''Governmentality'', in G. Burchell, C. Gordon and P. Miller, eds., *The Foucault Effect. Studies in Governmentality* (London: Harvester Wheatsheaf, 1991); G. Deleuze and F. Guattari, *Mille plateaux* (Paris: Minuit, 1980); Id., *Qu'est-ce que la philosophie?* (Paris: Minuit, 1991); B. Latour, *Politics of Nature: How to Bring the Sciences into Democracy* (2000), trans. by Catherine Porter (Cambridge, MA: Harvard University Press, 2004).

society with a high level of specialization of knowledge, different overlappings of expertise and authority are likely to occur. This fact diminishes in crucial ways democratic control over the power of 'strongest knowledges'.[9] Stanley Milgram's experiment on obedience to authority is much more than a *locus classicus* to be quoted occasionally.[10] The problem raised by Milgram remains central for understanding all social relationships of allegiance to commands and accountability in action.

Milgram's subjects were invited to participate as assistants in a test, purportedly on the development of memory and the 'effects of punishment on learning'. Subjects were then asked by an expert, the 'experimenter', to submit, in the role of 'teachers', a series of mnemonic exercises to another subject, the 'learner', and to administer appropriate punishments in response to errors by the learner. Punishments consisted of electric voltage discharges of progressive intensity.[11] Whereas models of average and psychologically healthy subject predicted that no teacher would push himself so far as to inflict potentially physically dangerous punishments on the learner, the experiment found that, under the expert's precise and punctual commands, more than half of the subjects administered the highest levels of voltage, including the most painful ones and those who could have certainly killed the learner.

I think it important to observe two points. First, the expert did not have any coercive power over the subject (the teacher) and was not overtly menacing him, but only exercising the kind of power Milgram

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[9] Paul Feyerabend is one of the authors who best analysed the issue of the space for democracy within science and the other forms of 'epistemologically strong' knowledge. See P.K. Feyerabend, *Science in a Free Society* (London: New Left Books, 1978).

[10] S. Milgram, *Obedience to Authority: an Experimental View* (New York: Harper&Row 1974); Id. "The Perils of Obedience" (1975), available on-line at http://www.home.swbell.net/revscat/PerilsOfObedience.html (visited May 30, 2004).

[11] The learner was one of the organizers of the experiment and of course he did not receive any voltage discharge; nonetheless, he was playing his part convincingly and everything did appear very realistic to the teacher, who was the real 'subject' of the experiment: 'After watching the learner being strapped into place, he is seated before an impressive shock generator. The instrument panel consists of thirty lever switches set in a horizontal line. Each switch is clearly labelled with a voltage designation ranging from 14 to 450 V. The following designations are clearly indicated for groups of four switches, going from left to right: Slight Shock, Moderate Shock, Strong Shock, Very Strong Shock, Intense Shock, Extreme Intensity Shock, Danger: Severe Shock. (Two switches after this last designation are simply marked XXX)'. *Ibid.*, at 2.

calls 'authority'. Second, it is evident that the expert's commands were quickly overflowing the legitimacy implicitly set out at the beginning of the experiment – that of a structurally predisposed legitimacy within the mandate of an 'ordinary' civic morality and legality.

Often, both legitimacy *of* command and the legitimacy *to* command can be simply presupposed in their procedural correctness and fairness, whereas demonstration of legitimacy through argument – along with the consequent possibility of subjecting it to limits – can be easily trumped by the mere facts and actual commands. The course of events can take over, deferring *sine die* the demand for legitimation, to the point of proving it ultimately irrelevant. Whether liquid modernity has weakened commands and the power to command, or rather whether it has just changed the *mask* of command, the specific shape whereby this form of power manifests itself, remains to be ascertained.

The idea of a single core of power and commands hiding behind many masks underpins most of the work of Elias Canetti, the Bulgarian writer of Jewish origin, who moved to Austria and later England. His *opus* is at the crossroads of a wide number of contemporary threads of thought on the nature of power and the social relationships in which power appears. 'To find the weak point of power' is the task Canetti sets for himself in the pages of his beautiful diary *The Human Province*.[12]

Canetti, without any reticence, deems power as 'absolute evil'. But we should not be fooled by the seemingly moralistic flavour of this expression. Canetti is not *attacking* power, mainly because he is well aware that, by doing so, one would end up embracing the very logic of power: 'I have never heard about a man who attacked the power without wanting it for himself'.[13] His aim, rather, is to articulate – during the dense, long 34 years of his writing *Crowds and Power* – that flashing, revealing vision of a whole single day. On July 15th, 1927, young Elias took part in Vienna in the workers' protest

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[12] This is a note from the year 1968, in E. Canetti, *The Human Province* (1973), trans. by Joachim Neugroschel (New York: Seabury Press, 1978). Two recent contributions explore Canetti's 'counter-images' of society: J.P. Arnason, D. Roberts, *Elias Canetti's Counter-Image of Society. Crowds, Power, Transformation* (Rochester, NY: Camden House, 2004); E. Rutigliano, *Massa, potere, metamorfosi* (Torino: Bollati Boringhieri, 2005).

[13] Canetti, *The Human Province, ibid*, year 1942.

suffocated in blood by the Austrian Government, resulting in over 100 deaths and the burning of the Palace of Justice.[14]

POWER AND COMMAND

One chapter of *Crowds and Power* is devoted to outlining the basic constituents of command. Here, I propose to identify the following: the original command as a death sentence; command as an external force and command as a sting. These features are characteristic of what we might call the 'command-machine'. The command-machine works through the mechanisms of acceptation of command, domestication of command and recoil of command.

First, command is a relation of power. It raises as power and perpetuates itself as power: the field of command is also the field of power. Both command and power exist on the verge of an abyss – death: 'The oldest command – and it is far older than man – is a death sentence, and it compels the victim to flee'.[15] From this perspective, the archetype of power, as well as its instant manifestation, is survival.[16] Survival is not simply a biological relationship between the self and one's own life, but a relationship with a social axis, too. It ties a subject to life *vis-à-vis* other beings. This explains Canetti's type of the 'survivor', a powerful person who compulsively kills others – or has them killed – in order to affirm his own power of survival. Murderous dictators and sanguinary leaders are present in no small number in world history. For those people, writes Canetti, 'the satisfaction in survival, which is a kind of pleasure, can become a dangerous and insatiable passion'.[17]

Command is not just physical violence. If it were, it could not accomplish its main function, namely that of *initiating* someone else's action. Command appears where a threshold arises that is preliminary to the occurrence of violence. This threshold, which is initially very tenuous but can be hugely expanded, is the menace. Indeed, the menace can stem from the very initial part of the manifestation of strength that inflicts violence, such as a gesture that induces the recipient to flee for fear that the whole violent action will follow. But, we

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[14] E. Canetti, *The Memoirs of Elias Canetti. The Tongue Set Free; The Torch in My Ear; The Play of the Eyes* (New York: Farrar, 1999) at 484 ff.

[15] Canetti, *supra* n. 6, at 304.

[16] Recently, the theme of the deep interconnections between power, death and law has been explored by Peter Fitzpatrick in "Dominions: Law, Literature, and the Right to Death", *Journal of Law and Society* 31/1 (2004).

[17] Canetti, *supra* n. 6, at 230.

really have a command only when this initial movement becomes autonomous and acquires its own specific features.[18]

The command of the powerful manifests itself as death sentence and capital punishment: the *right to life and death*. The capital institutionalized execution is a particular, highly codified and structured command. At its root lies the core of command in general. It consists of the immediacy of the menace, its *momentum*. The momentum's immediacy is intimately linked to the directionality of physical violence directed against a victim. Menace inherits this aspect of directionality: one might say that the menace itself largely consists of this directionality.

This is why commanding many imposes a qualitative change to commanding one-on-one. Because the crowd, insofar as it remains indivisible, subtracts itself from the grasp of the menace's directionality, the command to many, if it is to be effective, requires the separability and the identifiability of recipients.[19] This is the only way whereby the menace can be consistently 'vectorialized' towards each recipient so as to initiate action. Commands to collectivities are widespread in social life: we can venture that in many cases they are one of the most functional tools for having a lot of people do a joint, coordinated activity. Nonetheless, a command to *all* works only insofar as it is a command to *each*.

The flight-command, in its instant and absolute requirement, shows that the command is not originally cognitive. It does not even require one to do something, it does not describe an action, nor represent a ideal state of things to be achieved. This 'first' command does not ask the recipient to *do* anything. It 'merely' requires the recipient to *follow* the line indicated by the menace direction.[20]

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[18] Heinrich Popitz has observed that menace basically re-defines the situation of the menaced. Although we usually think that menace consists of a clear linkage between a specific behaviour of the menaced and a specific negative sanction, we could in fact be surprised by the fact that very often the negative sanction is widely indeterminate, and that such indeterminacy actually serves the effectiveness of the menace. What really counts in menace, therefore, is not the specific link between behaviour and sanction, but primarily the redefinition of the situation of the menaced, what we might call the 'menace mood'. See H. Popitz, *Phänomene der Macht: Autorität, Herrschaft, Gewalt, Technik* (Tübingen: Mohr, 1986).

[19] I think it important to recall that the 'and' between 'crowds' and 'power' is largely conceived by Canetti as an alternative rather than an association.

[20] At the same time, the line indicated by the command is not a mere continuation of former arrangements. Quite the contrary, it marks a radical, and sudden, discontinuity with the course of things up to that point.

Anyone who has seen the police charging the crowd at a demonstration knows very well what the element of the vectoriality of command consists in. This also confirms how a command is non-linguistic and non-homogeneous.

That command is non-linguistic in the Saussurean sense of *langue*, is evident: 'Commands are older than speech. If this were not so, dogs could not understand them'.[21] But, because command is non-linguistic, it can flow from one body to another without any codifying mediation, without necessarily being transcribed into a formalized, explicit representational system.

The flight-command evolves into the domesticated command. Intra-specific command, especially among human beings, is usually domesticated. The domestication of commands scores a pivotal point in averting command from its foundation in violence and death: 'Thus a close link grows up between commands and the giving of food'.[22] This new foundation, which comes to parallel the first one, lies in survival and nutrition. Domestication transposes command from exceptionality to everyday life. The command thus leaves the context of fight and enters the field of the alimentary economy and its organization. Yet, this does not change the fact that command remains a force external to the recipient. Domestication does not mean interiorization.

Domestication of command is deeply different from the interiorization of norms, upon which, for instance, Parsons' theory is based.[23] Parsons defined his own theory of action as 'voluntaristic', because the norm the actor follows in action cannot but be actively wanted and pursued by her. In other words, the subject has accepted the norm within herself and she is going to use it at the moment of projecting her own action. Norm – at least the norm that is really effective in determining a course of action – is an internal force. It is plain that Canetti's image of command is profoundly different: 'Every command consists of momentum and sting. The momentum forces the recipient to act, and to act in accordance with the content of the command; the sting remains behind in him'.[24]

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[21] Canetti, *supra* n. 6, at 303.

[22] *Ibid.*, at 307.

[23] T. Parsons, *The Structure of Social Action. A Study in Social Theory with Special Reference to a Group of Recent European Writers* (New York: Free Press of Glencoe, 1937).

[24] Canetti, *supra* n. 6, at 305.

The image of the sting as an alien presence in someone's body clearly expresses the idea that command is inescapably external to the person who receives it. Carrying out a command does not set one free from the sting. Instead, it is precisely what keeps the sting deeply stuck in the flesh of those who obey. The sting derives from commands that have taken grip. Disobeyed commands fail: their strength to create stings is lost and they vanish without trace. The creation of stings is directly connected to hetero-directed action: 'It is the action itself, performed as a result of external, alien pressure, which leads to the formation of a sting in human beings'.[25]

The image of the sting is more than a metaphor. Indeed, it raises the fundamental question of the ontological status of commands. Is command, in its substratum, a human or a non-human element? Command seems to imply a pure relationship among subjects, a phenomenon of circulation of intentionality and communication that is thoroughly played out in the human field. If so, probably a theory like Austin and Searle's speech act theory would suffice to explain the whole mechanism of command. But, are we really sure that the core of command is the cognitive understanding of a message, along with the ability to consider 'something counting as something else in a specific context' described by Searle?

Given the immediacy of commands, to postulate priority of the cognitive dimension is problematic. This is also why it is so difficult to penetrate rationally the actual working of commands, rather than their mere abstract scheme.[26] Indeed, in the case of commands in action, there is nothing, or almost nothing, to talk about.

Consequently, if the sting of command is not an interpretation of a message, or at the very least cannot be reduced to that, then we are pushed towards a more radical ontological thought. The sting is an alien body in my flesh, it acts upon me as something objective, something that exists even if I am not aware of its existence. Here we retrieve the transition from the domain of the *subjective* to the domain of the *objective*. Probably we still lack a sufficiently precise

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[25] Canetti, *supra* n. 6, at 322.

[26] Elsewhere, Canetti indirectly supports this idea: 'Among the most sinister phenomena in intellectual history is the avoidance of the concrete. People have had a conspicuous tendency to go first after the most remote things, ignoring everything that they stumble over close by'. E. Canetti, *The Conscience of Words* (1976), trans. by Joachim Neugroschel (New York: Seabury Press, 1979), at 14. Command may be one of these peculiar cases where research is pushed very far into abstraction, while very little is done to address the immediacy of the object.

knowledge of these dynamics, although they are crucial for the whole of social life, insofar as they mark the moment when, so to speak, *passions* become *institutions*. The sting's independent existence does not speak to a psychological or psychoanalytical distinction among different levels of consciousness. The sting exists independently from both my conscious and my unconscious. It is non-human.

From the point of view of the recipient, command is both *he who commands* – in the immediacy of the moment of reception – and, later, at the stage of a sting, a *fact*, a befallen and irrefutable fact, something as concrete as a sound, a gesture, a signal, a shape that enters my optic field. From the moment I start carrying it out, the command becomes more and more objective, as well as less and less human, always less a manifestation of a contingent will and always more an objective reality of the external world. Thus, commands seem to have the incredible quality of connecting what is most immediate and specific, in its pressing and emotional here-and-now, to mechanisms that are apparently mediated and general, like those related to the existence of institutional objects.[27]

The peculiar non-human features of commands are confirmed by the fact that they also act objectively on the one who imparts them. A command marks not only its victim, but also its giver'.[28] Command detaches itself from the will of the giver. He who targets someone and launches a command will also suffer a recoil. In the same way as the command presents itself to the recipient as something objective, likewise the recoil reaches back to the giver as something objective. The recoil generates an 'anxiety of command',[29] fear of having exercised commands. Here, again, command presents a factual *facies*.

The crucial ambivalence in the command-machine seems to consist of this: the command appears simultaneously as both a relationship among human beings *tout court*, and a relationship between human beings and non-human, external and 'objective' entities. Consequently, if we ask ourselves '*who* commands?', that is, who is the subject of the command, we may find out that, according to an

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[27] This expression is used by John Searle (See J.R. Searle, *Rationality in action* (Cambridge, MA: MIT Press, 2001). The description offered by Popitz (See Popitz, *supra* n. 18) of the process of institutionalization of power also shows that the stabilization of power includes progressive de-personification, formalization and integration of power acts within an objective and structured order.

[28] Canetti, *supra* n. 6, at 308.

[29] *Ibid.*

insight already suggested by Pierre Bourdieu,[30] this mysterious source of command that lies apart from personal will is the world itself – better, the socialized world as an order of things, the socialized world as it appears to us with all its *impersonal* but nonetheless *imperative* requests.

The sting of command leaves deep, painful and often permanent marks. For the human being it becomes necessary to avoid the addition – and addiction – of too many stings piercing one's flesh. One who cannot set herself free from an unbearable burden of stings sunk in her flesh runs a serious risk of having her mental health destroyed: 'A man can become so completely riddled with them [stings] that he has no interest left for anything else and, except for them, can feel nothing'.[31]

What are the conditions of effectiveness of commands? Commands share one important feature of what Louis Althusser called *interpéllation*: the 'hey, you!' form.[32] According to Norberto Bobbio,[33] what differentiates command from the norm, is not the fact that a command is addressed to a single individual and a norm is addressed to a collectivity, but, rather, it is the concrete *versus* abstract type of referent.

Whereas the norm addresses to classes of action unified by common characteristics, command always addresses specific empirical actions. Accordingly, while norm is an abstract imperative, command is a concrete one: not in the sense of individualized, but in the sense of individuated. Command binds *singulatim* a series of actors to a series of actions. On the contrary, *the crowd*, as an undivided entity, *is originally external to power and the command-machine*. Movements of the crowd are not determined, in the first place, by commands. They are immanent to the crowd itself. Two main antithetical strategies can thus be adopted in the attempt to escape the sting of command. The first is external to the field of power: it consists of becoming part of the crowd, where the command and its stings can be quickly dispelled. The second is internal to the field of power: it consists of disburdening one's own stings onto someone else.

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[30] P. Bourdieu, *Méditations pascaliennes* (Paris: Seuil, 1997).

[31] Canetti, *supra* n. 6, at 322.

[32] L. Althusser, *Lenin and Philosophy and Other Essays*, trans. by Ben Brewster (New York: Monthly Review Press, 2001).

[33] N. Bobbio, *Studi per una teoria generale del diritto* (Torino: Giappichelli, 1970), at 23 ff.

Precisely at this point, when one starts looking for a solution to the problem of the sting of command that is internal to the field of power, command begins to interweave itself with status. The existence of *status* and the use of hierarchical structures originates *chains of command* through which each layer disburdens commands received from above onto the inferior layers. Status hierarchy and the very maintenance of hierarchical structures in social life is intimately linked to the existence of stings. This link is both visible and transparent, as well as invisible and hidden: 'The open discipline of an army manifests itself in the actual giving of commands; the secret discipline operates by using the stored up stings of command'.[34]

From the exercise of command, the powerful arise. They are those who can simultaneously give impulses of command and free themselves from stings, thanks to hierarchical disburdening. Arguably, those who make the strength of hierarchical institutions are neither those at the bottom nor those at the top, but rather those in the middle, as they are equally distant from both the problem of the sting and that of recoil. But, it would be wrong to believe that command is a simple side effect of power hierarchy inside organizations. In fact, rather than being *constituted* by power, command is one of its core *constituent* elements. Otherwise it would be difficult to imagine social change, which appears as anti-hierarchic command. Take, for instance, the revolutionary action: an action against the power, true, but also undoubtedly an action *of* power.

Often, power and language are seen as coextensive. Here, however, we have argued that the relationship is not one-to-one. How could we articulate the two spaces of power and language in relation to law and command? Whereas classical legal imagination represents law as a fully linguistic phenomenon, critical legal pluralism invites us to recognize the inevitably multi linguistic and multi-symbolic character of law.[35] Likewise, command, insofar as it is a phenomenon of power, cannot be reduced to the monosymbolic logic of language. Only by enlarging our focus to the whole semiotic field can we try to figure out where to situate law and commands.

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[34] Canetti, *supra* n. 6, at 316.

[35] See R.A. Macdonald, *Lessons of Everyday Law* (Montreal: McGill/Kingston: Queen's Press, 2002); *Id.*, ''Kaleidoscopic Federalism'' in J.F. Gaudreault-DesBiens and F. Gélinas, eds., *Moods of Federalism: Governance, Identity and Methodology* (Montreal: Yvon Blais/Brussels: Bruylant, 2005).

Following Charles S. Peirce,[36] what characterizes the domain of the semiotic is essentially its thirdness, ('mediation', or 'transuation'). Sign is a symbolic medium that links three elements and brings them into a single grip, irreducible to any sum of couples (secondness). The category of mediation marks the appearance of a world that exceeds purely mechanical actions of couples of actors. Any concept of law clearly necessitates this tryadic grip, and is therefore semiotic. Commands, however, seem to systematically bypass such symbolic mediatedness, because they act immediately. Does this mean that commands, acting as impulse, im-mediate contact that 'initiates action', are to be situated on the level of secondness? Secondness ('obstinence') is the domain of purely physical forces. Is command such a blind phenomenon?

A positive answer is unsatisfactory. In legal theory, as well as in political philosophy, there is an implicit assumption that coercion and the use of force are the most physical form of power. But, in most cases, coercion does not necessitate any *contact* among bodies, and precisely because it is exercised through a command. This does not make it less coercive, but it does make it less mechanical. While immediate in its action, command cannot be explained as mere physical violence.

Command has a strong component of what Peirce calls firstness ('originality' or 'orience'), a form of existence that is not in reference to anything else, but rather constitutes a pure quality, a pure intension.[37] Peirce explicitly mentions commands in his discussion on thirdness. He describes the command given to our dog to go and fetch a book and bring it back to us. Any logical understanding of the *mechanism* of an action diagram necessarily requires the category of thirdness. Because the dog's action is guided by some sort of comprehension of the triadic connection master-dog-book, which cannot be broken down into smaller units, it is semiotic. But, on the other hand, the command-*machine* remains beneath such a

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[36] C.S.G. Peirce, *The Collected Papers of Charles Sanders Peirce*, Vols. I-VI ed. by Charles Hartshorne and Paul Weiss (1931–1935); Vols. VII–VIII, Arthur W. Burks, ed., (1958) (Cambridge, MA: Harvard University Press, 1931–58), §2.84–96 and §8.327–79. Peirce identifies three main ontic categories, which he calls 'ceno-pythagorean': see *ibid.*, at §2.87.

[37] Firstness is defined by Peirce as 'something *which is what it is without reference to anything else* within it or without it, regardless of all force and of all reason. Now the world is full of this element of irresponsible, free, Originality'. *Ibid.*, at §2.85.

mechanism. Although it may appear residuary, it is a fundamental residue, without which there would be no command at all, but just a script. The command-machine is a pure pre-relational quality. It is command in its presence here-and-now, non-contractual, non-binary, command as a pure tension in the present, without subject, without object and without interpretant – the command-*quality*, or impulse.[38]

As the take on *rules* offered by Wittgenstein in the *Investigations*[39] suggests, there is nothing to interpret. One must just engage in following them *blindly*. Likewise, Canetti writes: 'It is the nature of a command to admit of no contradiction. It should be neither discussed, nor explained, nor questioned. It is terse and clear because it must be instantly understood'.[40] Understanding is not cognitive like norm-abiding. Command is not a concrete and individualized norm, but rather something that comes over a norm. It over-reaches and superimposes itself onto a norm.

There is something we could call the *total*, or *absolute* command. Its totality is juxtaposed with the partiality of a collection of specific objects and scripts of action. It consists of an unconditionated pre-tension, a flashing impulse: "go!", or "do it!" – something even supra-ordinated to these elementary linguistic manifestations. The total command is absolutely entrenched in its own position, subtracting itself from any attempt at codification. The total command is neither relational nor interpretable. It arrogates action, initiates action immediately. The command-quality of the total command resides in a territory beyond both the means-ends syllogism and the binary physical coercion, the jerk. By contrast, partial commands are circumscribed and defined, and can always be framed in a rational interpretive frame. The total command lies in the background of all partial commands, which draw their ultimate energy from it and, at the same time, articulate and specify its original indeterminacy.

In most conceptions, power is symbolic. It circulates in symbols, and is made of them. Yet, gestures of command do not symbolize power. Rather, it is power that consists in making gestures, like the tight finger pointed against somebody, or any other menacing

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[38] Thus, we agree with the famous Perician maxim 'we think only in signs', while specifying that, nonetheless, we do not *live* only in signs. Commands represent one such non-semiotic life territory.

[39] L. Wittgenstein, *Philosophical Investigations*, trans. by G.E.M. Anscombe (Oxford: Blackwell, 1953).

[40] Canetti, *supra* n. 6, at 304.

gesture – 'impulsive' in the sense that it *impresses* an impulse along a direction. All the magnificent symbolic elements that garnish and decorate power derivate from those first gestures of command. The gesture is not a message framed in immaterial codes. It is an opaque core that relates to bodies in space.

Command is part of what, with Pierre Bourdieu, we can refer to as the *practical domain*.[41] The practical does not simply denote a 'bunch of actions'. What characterizes the practical domain is that the relationship of the actor with her own actions is not theoretical, but irreflexive and performative. As the Milgram experiment reminds us, too, the way of working of commands puts the body, its precedence over theoresis and morality, at the centre.[42] There is a *personalism* in commands. As a relationship, command is not and cannot be abstract. It is not surprising to discover that, in one variant of the experiment, in which orders were communicated by telephone or mail, the number of obedient teachers fell to less than one third of those cases in which obedience was immediately tested by the presence of the experimenter *in flesh and body* – and with his *gaze* upon the teacher.

On the one hand, command is possible because the human being is permeable. She is open to a becoming that transforms her, and she often finds herself flowing through non-human territories. Thorns can sting her skin. Thus, considered externally, command is one of the elements of becoming, of the world's transformation. It is an element among many others, through which human beings pass. The very possibility of the existence of commands, of their taking place, lies in the continuity of the human transformation.

Yet, on the other hand, command that emanates from power appears as a constant attempt to freeze metamorphosis in order to preserve the structures that power and command have created. The more the command interweaves with status hierarchies, the more the powerful is constrained within the narrow limits of the power configuration established in a given period of time. By compelling the others to change only in strict accordance to his command, by arresting their free transformations, it is he himself who can no longer transform. This is the pressing, sometimes dilemmatic condition of the powerful.

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[41] See P. Bourdieu, *supra* n. 7.

[42] The weakening of moral sense and consciousness in the carrying out of commands is clearly a sensible point. We will return to it in the conclusion.

Transformations of power are only transformations of the mask of power, and power always wears masks that only mask the immutability of its inner nature. How to subtract oneself from the *bloc* of power and command? For Canetti, this is the *mission of the writer*, as his 1976 conference is entitled.[43] Art – and writing in particular – is a constant *defence* of human metamorphoses. The writer is the 'keeper of metamorphoses', or 'transformations' (*Hüter der Verwandlungen*). She is able to live the multiplicity, to practice metamorphosis on herself, becoming *whoever*, any of the most distant and dissimilar persons. Subtracting herself from command, the writer subtracts from any undertaking aimed at achieving 'success', as well as from any means-end schema. She follows her vocation by resisting the present, the present of power, resisting all that exists insofar as it is command-firstness.

We can trace back this image of command and its negation (metamorphosis) to our initial ontological hypothesis. The command-machine functions by crossing a whole, whose elements are both ontologically diverse and, at the same time, tightly united in a sort of continuity, an on-going *ontological extravasation*. Let us consider the example of *The Horse and the Arrow*.[44] Describing the nomad Mongol hunters from the Asian meads, Canetti shows that the hunter, his horse and his weapons form a compact *unit* of command. Here, command takes place through direct physical transmission, without any space of manoeuvre, without any possibility of lacking grip.

As between the horseman and the horse there is no interpretive space but immediate transmission of command, likewise the arrow the hunter launches is an instance of that same *infallible command*, projected at distance, a total command that works like a death sentence. It either grips and sinks deep into the flesh or is lost forever. Wherever a distance, a space for manoeuvre is created, infallibility is no longer granted, and command may fail to its target. Sometimes commands *do not have grip* – as the more domestic case of trying to command a cat confirms.

Unlike the infallible command between horseman and horse, often a single blow is in fact not enough to *score* the command. When the recipient of command tries to subtract herself, she who commands must *repeat*. As in hunting, it becomes necessary to pierce the prey

[43] E. Canetti, *Der Beruf des Dichters* (München: Hanser Verlag, 1976).

[44] Canetti, *supra* n. 6, at 316 ff.

with a number of arrows to the point where it can no longer escape. Something similar happens in the Milgram experiment. Initially, some teachers try to subtract themselves from commands. Specifically, they look for a way to stop electrocuting the learner while at the same time *not displeasing* the experimenter. Of course, the dramatic aspect of the experiment is precisely the fact that such a move is impossible. The situation is designed in a way that makes it impossible to disobey without blatant and radical violation of the definition of the situation previously imposed by the experimenter, along with his authority as expert, and his very command. The experimenter answers every attempt to disobey – even the frailest ones – by repeating commands, or imparting series of commands, to the point of neutralizing any possibility of disobedience. Milgram tells us that many subjects continued to demur *even while they were carrying out* commands.

COMMAND AND LAW

Law is – and could not but be – based on the belief that it is possible to control and 'democratize' commands. Law's main way of accomplishing this project is to introduce procedures and rules that regulate the exercise of commands. Whether this project is feasible or not, we still do not know.

Command is a much older machine than the law. The attempt to 'juridify' it fully is probably impossible. Nonetheless, law has inside itself a machine presenting some similarity with command, the machine of the norm. However, because commands intervene upon the course of things by imposing a discontinuity, they also oppose norms. Indeed, whereas norms establish a normality, a course of things 'as it should be' – in other words, they attach a value difference to the factual difference between a state of compliance and one of non-compliance – command appears as an exception to the course of things. In a flash, command suspends what existed before, and 'impresses' an *ad hoc* direction onto action. The new direction is not necessarily related in any logical way to what existed before and it is not necessarily a corollary of any general rule. If we look at command as death sentence, it undoubtedly recalls a legal relationship, albeit a primordial one. How can we then specify the relationship between command and law?

The space of command seems to be *liminal* to that of legal norms. Giorgio Agamben has recently shown that any time we try to specify

the relationship between law and the *state of exception*, that moment when power decrees the suspension of law and opens an anomic zone, we fall in a series of paradoxes, because the state of exception is a 'force of law' without law, a 'force-of-~~law~~'.[45]

My hypothesis is that the juridical space of command can be understood by reference to such a situation. We have observed that while law is semiotic and linguistic – and precisely as such it falls into a number of ontological paradoxes when the state of exception is applied – power – and the power of command in particular – is originally neither semiotic nor linguistic. Rather, the state of exception, with its liminality to law, is the constitutive space of command.

To understand the ambiguous, liminal and exceptional, status of command, we may compare power and force. Force is a form of immediacy, where everything can be resolved at the Peircian level of secondness. Power implies an extension, an *amplification* of force in space and time.[46] Because amplification is *a-priori* undefined, power appears as a floating virtuality, something real and on the verge of actualizing itself. As such, power is very close to firstness. By actualizing itself, by taking its relational shape, it becomes a thirdness. To endure as power, the virtuality of power must preserve its own capacity to actualize itself quickly wherever it is required. Canetti maintains that power is tightly linked to *velocity* in swooping and catching. The greater the velocity, the more inescapable the power.

Velocity brings power increasingly nearer to force, but it never leads to a fusion of the two. A *dromology*, a field of relative velocities, is inherent to power. The more powerful command is the quickest one. There is a velocity of *swooping* and of *catching*, where catching follows swooping and is characterized by the direct contact we find in the actions of pressing and grinding.[47] Command exists and happens in the immediacy of such actions. The real command cannot be but 'at the present'. The rest is, so to speak, just 'tales about command', discursive and narrative but essentially epiphenomenal productions. The reason why it is so difficult to talk about commands is that they

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[45] G. Agamben, *supra* n. 7, at 52.
[46] Canetti, *supra* n. 6, at 281 ff.
[47] *Ibid.*, 203 ff.

tend to be continually replaced or integrated by accounts and discourses that aim at normalizing them.

The dromology of power has an ambivalent effect on power asymmetry. Most authors who follow the Weberian typology of power have concentrated themselves mainly on *Herrschaft*, i.e. on the politically and legally legitimate power, and on the conditions of production of legitimacy. On the contrary, Canetti lingers on the far less explored side of *Macht*.[48] While *Herrschaft* is made possible by *obedience* – and the relationship of obedience is based on the recognition of authority, which is a kind of primordial authorization to the exercise of command[49] – in Canetti's alternative understanding it is not obedience that underpins power, but rather power – specifically, the power of command – that generates the impulse from which obedience follows.

Whereas the *Herrschaft*-form is founded on what we may call a *democratic ontology* of power, according to which power ultimately depends on those who are subjected to it, Canetti suggests that the core of power is not democratic at all, because its fundamental mechanism does not rest on looking for attitudes, but rather on launching impulses. The immediacy of the command has a double, ambivalent effect. On the one hand, command breaks any resistance and sets itself beyond the problem of demand for consensus. On the other hand, it constantly creates expectations of consensus and facilitates their emergence.

Some social positions are structurally much more *subjected* to commands than other. Social asymmetry is evident, for instance, in the relations between marginalized people, stigmatized minorities and illegal immigrants on the one hand, and the police on the other hand. Because of their social or legal precarious status, marginal people and illegal immigrants do not have many chances of subtracting themselves from commands issued by the police.[50] Even in the best cases, outsiders will always have fewer means of flight than the established.

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[48] See M. Weber, *Economy and Society: an Outline of Interpretive Sociology* (1920), ed. by Guenther Roth and Claus Wittich; trans. by Ephraim Fischoff et al. (New York: Bedminster Press, 1968) at I:§53. *Macht* and *Herrschaft* designate the field of power: *Herrschaft* indicates that sub-set of *Macht* where the pure force of imposition of command – Weber writes 'will' (*Wille*) – is supplemented by acceptance and consensus by the commanded. The problem remains to see whether, in fact, the two dimensions are mutually exclusive, or are superimposed.

[49] See also Popitz, *supra* n. 18, at §4.

[50] See the recent considerations by James Stribopoulos on the power of arrest: J. Stribopoulos, "Unchecked Power: the Constitutional Regulation of Arrest Reconsidered", *McGill Law Journal* 48 (2003).

When addressed to these subjects, command manifests all its aspect of external, direct and even brutal influence. It leaves its mask of *partial* command, the procedurally circumscribed and justified versions, to become – or come back – *total* command, an entrenched form of order that rejects any rational representation of, as well as discussion on, its content. In resorting to such a type of command, police forces are both widely legitimated by the high visibility of marginalized people as deviant subjects, and facilitated by the fact that the most dangerous consequences of such command for the democratic exercise of 'power in public' are made irrelevant by the same invisibility of those people as social agents.

This raises the problem of the *infiltration* of law by a series of tacit elements that prove difficult to control. These elements lead not only to arbitrary and potentially discriminatory application of explicit norms, but to their suspension. This problem, first raised by Foucault, has been developed and analytically explored in critical criminology. Critical criminologists stress the fact that the suspension of norms, which follows from the infiltration of law by invisible regulatory modes as well as unspoken criminological *savoirs*, creates spaces of exception within the law.

Actually, however, *every* command, precisely because it cannot be abstract and because it manifests itself always in an immediate continuum of heterogeneous parts, represents an exception to law. Giorgio Agamben individuates two components of politico-legal power: *potestas* (or *imperium*) and *auctoritas*.[51] Potestas and imperium are intimately connected to law as *positive* law – in the sense of *positum*, enacted. Auctoritas is a much more ambiguous, unstated component.

Auctoritas is similar to the power Weber defines as 'charismatic', that is non-derivative and non-representative. These are characteristics of command, too. They do not lie on the side of the *application* of law, but rather on the side of its *suspension*. Law, however, must be founded on the belief that is possible to *regulate* commands by introducing procedural rule, contexts of justification, legitimated patterns, schemes and accepted *modi operandi* of commands. Consequently, law and commands reciprocally act and react upon one another according to different, even opposite logics.

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[51] See Agamben, *supra* n. 7.

CONCLUSION

Command is a sort of anti-norm. It lacks the generality and regularity of norms. Its foundation is impulsive, immediate, irrational. But, paradoxically, command is also the purest present actuality of a norm. There comes a time when norms – however discussed, mediated and agreed upon – must be put into practice. Whenever we must jump from verbal formulations of normative statements and their symbolic representations to action, something very similar to a command is likely to occur.[52]

Does one command thanks to one's own authority, or does one have authority because one commands? The answer to this question brings to the fore a distinction between two types of authority: the first we may call the *institutional* type; the second, the *relational* type. This distinction is *a parte subjecti*. The first type is impersonal. It foregoes single givers of commands and enables them to exercise command. The second type of authority is, by contrast, personal. It follows the givers, insofar as it originates in those commands that one has succeeded in having others carry out. Relational authority is made of the stings now sunk in the body of those who have carried out certain commands. The power to command looks like it is based on authority, which is in turn based upon the whole 'social structure'. Such is the appearance of institutional and instituted authority. But exception is always close by. At each moment, this situation can be reversed into almost the opposite, a – frightening? – situation in which authority is founded upon command.

The work of Canetti uniquely intercepts all the major threads of contemporary reflection on the nature of human action, law and power. Three of these contributions are particularly interesting for our discourse. The first one is the disciplinary society thesis,[53] which affirms the existence of an articulated system of visibilities underpinning the exercise of commands. The kind of power that emerges from the positional disciplinary system is not simply regulatory, but constitutive. It *constitutes* its own subjects.

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[52] Again, this is consistent with Wittgenstein's conception of language *as* action. See *supra* n. 5, and n. 39.

[53] M. Foucault, *Discipline and Punish: the Birth of the Prison* (1975), trans. by Richard Howard (London: Penguin Books, 1977).

The second contribution is the double bind thesis, which describes the condition of being the recipient of an ensemble of contradictory commands.[54] Although the most natural reaction is to ignore them, certain particularly pressing contexts do not allow the recipient to escape the field defined by contradictory commands.

Finally, the third contribution is an *a contrario*. The 'interiorization of norms' thesis identifies a cognitive and moral mechanism through which the norm is said to become *part* of the subject.[55] Acceptance of norms is thought to be mediated by a process of norm interiorization reminiscent of Kant's discussion of moral maxims. Canetti's image looks quite different. Regardless of how much closer to the recipient the command can penetrate – even piercing his skin – it will always remain an alien body in him, an external and mighty alien body.

At the crossroads of these threads, it has been possible to identify a number of characteristics for the analysis of commands: heterogeneity, non-semioticity, and immediacy-embodiedness. First, command involves heterogeneous relations, in two senses: on the one hand, it takes place among heterogeneous subjects; on the other hand, it takes place between an object and a subject. The fact that command appears not only as a relationship among persons, but also as something objective and non-human, produces a deep, and perhaps undeletable, ambiguity in any cognitive and moral interpretation of commands. The *acteur-réseau* theory addresses this problem. The main claim in Latour's theory is for a radical overcoming of the dualism between social and natural worlds. It is an argument for a theoretical pluralism of things and phenomena that, despite their ontological diversity, act within the same *collective*.[56] In the case of commands, the heterogeneous defines a *unit of command*, or a command-machine, like the horseman-horse-arrow unit of the Mongolian nomads.

Second, command is originally neither symbolic, nor semiotic. Commands can be symbolized, but their action cannot be described by leaving their non-semiotic core aside. The domestication of command generates *habitus*, intrinsic dispositions of action.[57] Habitus are

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[54] The concept of double bind as inescapably paradoxical situation created by contradictory, undeletable imperatives addressed to the same person was first introduced by Gregory Bateson in his study of schizophrenia. See G. Bateson, *Steps to an Ecology of Mind* (New York: Ballantine Books, 1972).

[55] See Parsons, *supra* n. 23; A. Etzioni, "Social Norms: Internalization, Persuasion, and History", *Law and Society Review* 34/1 (2000).

[56] See Latour, *supra* n. 8.

[57] Bourdieu, *supra* n. 7.

different from interiorized norms. They are originally neither cognitive nor moral. Their nature is not that of precept-acceptance, but of disposition-direction. Upon the substratum of habitus, command defines its own request of order, which includes the vectorial identifiability of recipients and the other mechanisms we have seen. It is a frontier zone that exists *in limine* to law and every legal relationship.

Finally, the liminal and non-semiotic dimension of commands is tightly interconnected to its corporeal impact and its immediate grip on the body. Jeremy Bentham thought it possible to solve the problem of social order through control of the basic personal instincts of fear and gratification. Milgram, by way of his experiment, has brought to our attention another crucial aspect: obedience to commands does not necessarily follow the logic of fear (sanction) and gratification (reward). Often, obedience precedes the perception of future fear or future gratification. Because disobedience is never simply a matter of rational disagreement based on calculation, but rather something that strikes the a-rational and a-moral root of the impulse-and-sting machine of command, it is very much easier to obey than to disobey. This is why, I think, Canetti's thought proves useful. His analysis shows that command is not a matter of calculations – not even a primitive calculation made of sums of pleasure and pain. It has to do directly with the body, with its reactivity and its immediate and irreflexive dispositions, and even with objective forces that cross it.

To conclude, this discussion was meant to improve our understanding of the potential social danger of commands, which arises from lack of control over them through purely cognitive and moral means. Command seems to be situated in a grey zone that eludes every attempt to establish its relation to a dichotomy we feel familiar with – that of law and non-law. Partial commands become total, absolute and entrenched commands, which are always present in the background, at the foundation of the command-machine. The very functioning of commands extends the areas of exceptions within law. Despite their apparent smallness, these areas are the places where the bare 'power of life and death'[58] appears. Precisely because of its liminality, command can increase the intermingling of law and exception. In order to understand the extent of these risks, it may therefore be necessary to move towards a more comprehensive

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[58] See G. Agamben, *supra* n. 7. See also G. Agamben, *Homo Sacer: Sovereign Power and Bare Life* (1995), trans. by Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1998).

sociology of command and its deepest interweavings with power and law.

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