



MONASH University

Grace Beyond Measure: A Rethinking of Hospitality

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Abstract

This thesis articulates and defends an *ethos of responsibility* in relation to the politics of asylum. This ethos comprises two main components:

- 1) A defence of the French Republican ideal of the Rights of 'Man' (human beings), *pace* Hannah Arendt's criticism; the philosophy of Emmanuel Levinas is used to argue that there is a phenomenological grounding for the locus of the dignified human subject which can be identified – that dignity is not bound simply to political membership, but has a more fundamental provenance. In Levinas's phrase: 'In the face – a right is there'. This takes the defence of the rights of stateless persons beyond Arendtian promise-making or the abstractions of liberalism, to ground the very idea of human dignity in Levinas's philosophy. The Face itself – the exposure to the vulnerability of other persons – can itself provoke political action in the context of asylum, but more importantly, is the basis of understanding what an ethos of responsibility entails. The Face is that which a state, if it is to be responsible, ventures forth to meet in its distress (such as the exemplary 'Mare Nostrum' program of the Italian Navy to rescue ships of asylum-seekers at sea).
- 2) If political actors are to recognize the dignity of a significant population of concern – displaced persons, refugees and people seeking asylum – then how are they to negotiate the limits that they may face in providing refuge? Understanding justice as a sense of moderation is a view put famously by Aristotle in the *Nicomachean Ethics*. But there are at least two problems in constraining just acts to principles of moderation: firstly, in certain circumstances, it may be necessary to consider the *possibility* that ethical relations go beyond the moderate, that exorbitant, excessive gestures in the name of the Rights of Man may be required to safeguard the dignity of stateless persons (for example, agreeing at the time of calamities such as the Holocaust or the Syrian conflict to admit all refugees, without limit, to safeguard them from horror); secondly, that moderation itself may stand in for mean-spirited politics (and that making the distinction between these can be difficult). These problems are gathered in a syntagm of original coinage: *the calculus of moderation*, where 'calculus' refers specifically to moderation as it is elaborated in relation to *numbers*, that is, to the reduction of human beings to a calculation, rather than, as in Kant's view, seeing them as ends in themselves. This thinking is explored firstly in relation to the writings of Levinas and Derrida on 'Cities of Asylum'; secondly, in a meditation on the possibility of 'France Alone' welcoming all of the stateless persons in the world (and thus calling into radical question the limits of welcome and moderation itself via an appeal to a French Republican tradition of granting asylum); and finally, via an original reading of the theme of asylum in Greek Tragedy, especially in the *Oresteia*, where it is argued that Athena's gesture towards Orestes constitutes an act of gracious welcome where the calculative is suspended in the name of a grace that is prior to justice but which informs and orients the meaning of a just politics.

Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma at any university or equivalent institution and that, to the best of my knowledge and belief, this thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

Signature: ...



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'...be inventive in hospitality' – Romans 12:13

Moderation in principle is always a vice. – Thomas Paine

It is part of morality not to be at home in one's home. – Theodor Adorno

INTRODUCTION

There is no *numerus clausus* for *arrivants*. – Jacques Derrida¹

The French Revolution inaugurated a new era of the political in relation to what was termed *les droits de l'homme* – ‘The Rights of Man’.² The defence of the *universal* Rights of Man was held to be an orienting principle, an *ethos*, and the foundation of law in the nascent Republic. This included a view that the right to *refuge* – given that the Republicans understood France to be in opposition to tyranny everywhere – formed an important element of the Rights of Man.³ Yet the same founding declaration speaks of the Rights of the ‘Citizen’, thus producing a potential tension or conflict between those rights held by dint of common humanity, and those as members of a polity. Does it make sense to require of a political entity (whether it be a city or a state or a region, and so on), that it take responsibility for those that do not form a part of its existing constitutive membership (the limit-problem of the *demos*)? Is it *possible* to articulate an *ethos of responsibility* in relation to the politics of asylum for stateless persons – a defence of the ‘Rights of Man’ where responsibility for their human dignity would be seen as fundamental to the identity of the polity? The possibility of such an *ethos* is posited and explored in this thesis.

The politics of asylum have rarely been more urgent, both in Australia and around the world – acutely so in Europe since at least 2015.⁴ In Australia, policy responses to people seeking asylum are arguably one of the most fraught political issues – new stories, events and controversies emerge, it is no exaggeration to note, on a daily basis, a theme which has dominated Australian politics since the events of the Tampa stand-off in 2001, and the sinking of the SIEV X.⁵ Internationally, the ‘total population of concern’ – that is, refugees, asylum-seekers and displaced persons combined – is as great as the same population after the Second World War.⁶ It is also possible that the effects of climate change may produce much great numbers of people forcibly on the move in future, making serious

¹ Derrida, J., *Politics of Friendship*, New York: Verso Books, 1997, p. x.

² The phrase ‘Rights of Man’ is used throughout the thesis. As will become evident, its use is deliberate, owing to the explicit use of this phrase by two of the central thinkers the thesis is concerned with – Hannah Arendt and Emmanuel Levinas – and the ways in which their approaches to this topic can be contrasted. In addition, a central theme of the thesis is the tradition of refuge in Republican France, which also grants a privilege to this phrase as captured in the famous Declaration. It should go without saying, but I make it explicit, that this in no sense should be seen as privileging men over women, but refers to the rights of all human beings; it is an outdated phrase that nevertheless is of singular importance in the literature presently examined, thus its retention.

³ See Burgess, G., *Refuge in the Land of Liberty: France and its Refugees, from the Revolution to the end of Asylum, 1789-1939*, New York: Palgrave MacMillan, 2008.

⁴ For an excellent overview of recent events, see Kingsley, P., *The New Odyssey: The Story of Europe’s Refugee Crisis*, London: Guardian Books, 2016. In part this sense of urgency relates to the mediatic privilege granted to events in the developed, as opposed to the developing world, as the latter (from Chad and Ethiopia to Lebanon and elsewhere) regularly shelters millions more refugees than Europe, Australia, or the United States do.

⁵ For the events surrounding the Tampa see Marr, D., and Wilkinson, M., *Dark Victory*, Sydney: Allen and Unwin, 2005, p. 2004. For the controversy of the SIEV X (a boat containing people seeking asylum that sank, with most occupants drowning), see Kevin, T., *A Certain Maritime Incident: the sinking of SIEV X*, Melbourne: Scribe Publications, 2004. For an overview of Australian refugee policies over time, see Neumann, K., *Across the Seas: Australia’s Response to Refugees – A History*, Melbourne: Black Inc, 2015.

⁶ <http://edition.cnn.com/2016/06/20/world/unhcr-displaced-peoples-report/>, retrieved 23/7/2016.

reflection upon the ethics of hospitality one of the most pressing tasks of Twenty-First Century politics, and thus contemporary political thought.⁷

This thesis seeks to advance novel arguments on a familiar subject, in an effort to break new ground and reconfigure the understanding of possibilities in this context. The methodology of this thesis can be considered as that of 'political theory', if understood in the sense given to this term by Hannah Arendt, who refused the title of philosopher, despite the preponderance in her work of philosophical language and concepts; she nevertheless was primarily interested in a thought-work that stayed close to the world of action, of human beings determining how to live and act in common.⁸ It is the chiasmus⁹ point between the political and the philosophical that is the nexus of the thinking pursued here, and the thought trajectory that animates this work should be understood as being uninterested in one without the other, neither a philosophical thinking that would have no real-world import, nor a political thinking not grounded in the most rigorous philosophical scrutiny that disciplined and tested its ideas to the maximum degree. Neither Levinas nor Derrida are, nor should be considered, as primarily political thinkers or as political theorists; their work does not generate a set of normative ethics, but rather questions the ethicality of ethics, the meaning of the ethical prior to decision-making.¹⁰ It is a question of how their philosophical work might *inform* the political, establishing *criterion for judgment*, rather than a set of political axioms to be applied as a kind of algorithm. Thus the present argument should not be understood simply as pressing philosophy into the service of the political (and thereby hastening thought along, risking the quality of its rigour in order to achieve a set of practical outcomes), but rather as an effort to reconceptualise a familiar subject where philosophical thought might inform – rather than form – political theory and praxis.¹¹

This has to do in part with an exposure of the political to its others. What does this mean, and what does 'the political' mean in this context? Politics - as the activity proper to human beings living in a *polis*, a political community (a city or state or international community and so on), as arising from the condition of plurality and the *inter homines esse* - in the present context refers to the activity of deliberation and decision-making in relation to those who come from without the polis – people seeking asylum. The symbolic separation of the Rights of 'Man' from those of the 'Citizen' informs the challenge to the political by its others, which is to say: that for Levinas, the essence of the human does not lie in political association, in civic rights, man is not simply *zoon politikon*; the *esse*, in terms of human dignity, is prior to the *inter homines esse*, in that its dignity (*dignitas*, the worth of a person) adheres not simply in political agreement or even in co-habitation, but in the exposure to the Face of the other. In a pithy summation which will be a continuing point of reference throughout, Levinas

⁷ See McAdam, J., 'Creating new norms on climate change, natural disasters and displacement: international developments 2010-2013', in *Refuge*, Vol. 29, No., 2, Spring 2014, pp. 11-26.

⁸ For Arendt's use of the term 'political theory' and refusal of the title of philosopher, see "'What Remains? The Language Remains": A Conversation with Günter Gaus', in *Hannah Arendt: The Last Interview and Other Conversations*, New York: Melville House Publishing, 2013, pp. 3-5.

⁹ The figure of the chiasmus is an important symbol in representing the crossed thought-trajectories of Levinas and Derrida – one first proposed by Levinas himself. It is for Levinas an expression of 'the pleasure of a contact made in the heart of a chiasmus' – that is, a mutual affection and friendship, a philosophical relationship that while at times critical, is nonetheless pursued in a spirit of affirmation and often general, and at times total, agreement. See Levinas, E., 'Wholly Otherwise', in Bernasconi, R. and Critchley, S. (eds.), *Re-Reading Levinas*, Bloomington: Indiana University Press, 1991, pp. 6-8.

¹⁰ Raffoul, F., *The Origins of Responsibility*, Bloomington: Indiana University Press, 2010, p. 2.

¹¹ This approach is one that is in accord with the following remark by Peter Euben: '[...] their absolute separation [philosophy and politics] corrupts rather than insures the integrity of each.' From Euben, P., *The Tragedy of Political Theory: The Road Not Taken*, Princeton: Princeton University Press, 1990, p. xi. One can simultaneously doubt that philosophers should be kings, and that political praxis should have nothing to do with philosophy.

argues: 'In the face – a right is there.'¹² Thus the recognition of human dignity, contrary to Arendt's view, is anterior to its political guarantee; responsibility for the other person, in Levinasian terms, is constitutive of human subjectivity. The human subject who enters into political agreements is always already a responsible subject; thus the very ontological ground upon which Arendt builds her case against the Rights of Man and in favour of the Right to have Rights, is already to negate this point, because to be a human being for her, as for Heidegger – in this she is a faithful Heideggerian – is not primarily a mode of ethical responsibility.¹³ If one reconfigures the understanding of human subjectivity that is constitutive of those who form political relations, then it is possible to think of the state itself as an outgrowth of this responsibility, as exposed to the infinite demand of the other as constitutive of itself – that is, exposed to a transcendence that is not religious or mystical-spiritual, but is the mode of relating to and recognizing the dignity of other persons outside the polity. The recognition is one of uniqueness, and the unique, transcendent-infinite relation to the other carries ethical responsibility beyond an ethics of reciprocity – hence both Arendt's reciprocal model of the Right to have Rights, and Aristotle's thinking of justice as moderation and reciprocity, are subject to critique in the present argument.

That this sense of responsibility should not be understood simply as benevolence, the generosity of the rich towards the poor, the superior to the inferior, is clear from Levinas, who always maintains that the vulnerable, destitute other nevertheless comes to interrupt the subject as though from a height.¹⁴ That refugees are brave and exercise agency, can make their own decisions and even form political communities in exile, cannot be doubted. The point is not to delimit their agency, but to understand the responsibilities that polities (especially wealthy polities that are loath to take responsibility) have towards them; for despite their agency and bravery, stateless persons are often eminently vulnerable to circumstance (which is the power of Arendt's original insight, that the loss of civic rights is devastating to the realization of human rights). The right to have rights remains a vitally important concept, but the argument to be pursued is that the sense of subjectivity and responsibility that Levinas articulates, is required to underpin it.

The overall aim of the present argument is to articulate an ethos of responsibility in relation to the politics of asylum. There are two halves to this articulation: the first three chapters explore the politico-philosophical groundwork of such an ethos; the subsequent three chapters interrogate what such an ethos might look like in situation, drawing on examples in relation to cities and states. The ethos of responsibility should be understood as the fulcrum of the argument, connecting the moves from philosophy, to the political, to the discussion towards the end of asylum as a theme in Attic tragedy. Each move is animated by the same concern for the working-through of this ethos, what it means, how it might be understood and applied as a criterion for judgement of the political.¹⁵

¹² Levinas, E., 'The Face of a Stranger', in the *UNESCO Courier*, July-August 1992, p. 66. This point will be returned to in Chapters Two, Three and *passim*.

¹³ 'Things are not, as in Heidegger, the foundation of the site, the quintessence of all the relations that constitute our presence on the earth...The relationship between the same and the other, my welcoming of the other, is the ultimate fact'. Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 78.

¹⁴ See for example *Totality and Infinity*, pp. 76-77: 'The transcendence of the Other, which is his [sic] eminence, his height, his lordship, in its concrete meaning includes his destitution, his exile [dépaysement], and his rights as a stranger.'

¹⁵ A brief excursus on terminology: throughout the thesis, normative-sounding words like ethics, morality, grace, mercy, justice, the law and so on, will abound. While at times these will cross into one another, there are some

What does an ethos of responsibility mean? Breaking down this syntagm into its constituent parts, firstly ethos must be defined: in this context, its meaning is bound up with that of hospitality. A striking definition of both ethos and hospitality, which orients (and originally provoked) the work pursued here, is provided by Derrida:

Hospitality is culture itself and not simply one ethic amongst others. Insofar as it has to do with the *ethos*, that is, the residence, one's home, the familiar place of dwelling, inasmuch as it is the manner of being there, the manner in which we relate to ourselves and to others, to others as our own or as foreigners, *ethics is hospitality*; ethics is so thoroughly coextensive with the experience of hospitality.¹⁶

Derrida thus provocatively delimits any thinking of the ethical to its interpretation *qua* hospitality.¹⁷ To suggest that ethics is coterminous with hospitality is to suggest that all ethical questions, in the political realm, are in some way bound up with the reception of others. But what does this mean, how is one to think this definition of the ethical? What can it mean for a thinking about the plight of refugees and asylum-seekers (the signification of hospitality pursued here)?

Before addressing this, the second part of the syntagm must be clarified: responsibility. In its etymology, responsibility is formed from the Latin *respondere*, where *re-* is again, *spondere*, to pledge; in Old French, *Respondre* is to answer or to promise in return. Responsibility thus has the character of a repeated answer or promise. Combining the terms, an ethos of responsibility thus refers to the manner of relating to others in the place of one's residence, in the form of answering to or promising to them.

One way to pursue the meaning of this ethos is by reference to the work of the aforementioned Hannah Arendt; in Chapter One of the thesis her arguments identify the political problem to be pursued subsequently via the work of Levinas and Derrida.

What is that problem? In the Preface to the First Edition of *The Origins of Totalitarianism*, Arendt writes that 'human dignity needs a new guarantee which can be found only in a new political principle, in a new law on earth.'¹⁸ She was writing in response to the events of the Second World

distinctions that need to be kept in mind. *Ethics* or *ethos* should be understood in the Levinasian sense as the way of relating to others; morals, from the Latin *mores*, means much the same thing in this context; as Arendt notes, ethos and mores are ways of accounting for norms of behaviour. *Justice* is distinct from ethics/morality, in that it is understood in this context in a political context; justice is the adjudication between ethical claims that might be in conflict (for example, the demands upon a state by its own citizens, versus those placed upon it by strangers from elsewhere who seek asylum); justice, as in its classical sense, is a weighing of interests, but oriented towards the *good*, which in this context, refers primarily to *human dignity*. *Grace* is a further horizon beyond justice where the symbolic scales of calculation are gone beyond in an act of allowing; *mercy* is related to this, but somewhat distinguished from grace, as is discussed further in Chapter Six.

¹⁶ Derrida, J., *On Cosmopolitanism and Forgiveness*, London: Routledge, 2001, pp. 16-17.

¹⁷ It is to be regretted that writing a thesis on Derrida on hospitality at this time is limited by the non-availability of most of his seminars on this topic. We know from the Derrida Seminars Translation Project that Derrida gave two sets of seminars on hospitality: ten sessions in 1995-6, and eight more in 1996-7. Of these, two complete seminars (plus some extracts from other seminars that were edited into those two) were collected in his well-known book *Of Hospitality*. (There is also his paper 'Hostipitality', and other texts – such as *Adieu to Emmanuel Levinas* – which focuses on the theme of hospitality). Presumably this selection is somewhat representative of the overall strands of his thinking on hospitality; however, anyone acquainted with the available published seminars can testify to the richness of ideas that adheres in every session, and that we can therefore anticipate a significant recalibration of our understanding of Derrida's views on hospitality once those additional sessions are published years from now.

¹⁸ Arendt, H., Preface to the First Edition of *The Origins of Totalitarianism*, New York: Harcourt, 1976, p. ix.

War, and the vast numbers of stateless people it produced, what she described as ‘homelessness on an unprecedented scale, rootlessness to an unprecedented depth’¹⁹; the numbers from that time to now are similar, and thus the problem and the need she identified are just as pertinent today as then. But what is this new guarantee and new law of which she speaks, what she also names as the ‘right to have rights’²⁰? In *The Life of the Mind* she writes that ‘plurality is the law of the earth’ - the ineluctable condition of different groups of human beings having to find a way of living together.²¹ One could link this to her call for a new law; the law would be that which responds to this condition of plurality, which takes it into account, and all the problems of being or living-in-common, and the ethics that this necessitates, understanding *ethos* in its Greek etymology as referring both to place and to custom or culture, ethics as moral comportment and the *ethos*, the *mores* or morals, the culture of the inter-subjective.²² So to think ethics-as-hospitality would be to respond to this call for a new principle or a law on earth that can account for plurality, living together and the proper comportment – that is to say, political response - towards other people, and for that response to be one which guarantees the safeguarding of their dignity. It is a call for an ethics of hospitality that would be up to the challenge of hospitality that confronts nation-states; but, *pace* Arendt²³, this thesis will pursue this idea as a political principle or ‘law’ that would not be a codified law but rather an *ethos*, a mode of articulating the proper relationship between justice – that is, the ethical comportment towards the vulnerable other - and the political ‘entity’, be it a ‘newly defined territorial entity’, a city, region or state. In particular, it constitutes a thinking of sovereignty that would posit responsibility for others as a primary goal or *telos* of the polity, a mode of self-understanding, a sense of identity and a criterion for judgment which polities apply to themselves.

State sovereignty remains, to borrow a phrase from Sartre, the unsurpassable horizon of our time, and the view advanced here is that this sovereignty can be challenged, re-thought and re-articulated; but that a properly moral response to the plight of asylum-seekers does not mean to await the reconfiguration of the geopolitical order where state sovereignty ceases to be or is radically reconfigured. Such utopian, messianic or anarchic aspirations in the sense of Simon Critchley’s view in *Infinitely Demanding*²⁴, or Agamben’s call for a ‘nonstatal and non-judicial politics and human life’²⁵, or Žižek’s utopian view: ‘With regard to refugees, our proper aim should be to try and reconstruct global society on such a basis that desperate refugees will no longer be forced to wander around. Utopian as it may appear’²⁶ - may be entirely legitimate, but are not the only focus here; the *responsibility of states*, as well as the potential disruption or reconfiguration of the geopolitical order, is explored throughout. It could even be argued that such a politics of awaiting systemic change is

¹⁹ Arendt, H., *The Origins of Totalitarianism*, p. vii.

²⁰ Arendt, H., *The Origins of Totalitarianism*, p. 296.

²¹ Arendt, H., *The Life of the Mind*, New York: Harcourt, 1978, p. 19.

²² On ethics and morality as *ethos* and *mores*, see Arendt, H., ‘Some Questions of Moral Philosophy’, in Kohn, J., (ed.), *Responsibility and Judgement/Hannah Arendt*, New York: Schocken Books, 2003, p. 50.

²³ While she is unclear on the exact form this principle would take, it was articulated as a formal politico-legal principle, rather than an abstract or ambit claim – the weakness of the natural ‘Rights of Man’ when untethered to citizenship rights was a primary target of scorn for Arendt. For a good discussion on this point, see the Introduction to Gündoğdu, A., *Rightlessness In An Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*, Oxford: Oxford University Press, 2015.

²⁴ Critchley, S., *Infinitely Demanding: Ethics of Commitment, Politics of Resistance*, London: Verso Books, 2012. Critchley criticises Levinas for being too committed to a statist politics – see Critchley, S., ‘Five Problems in Levinas’s View of Politics and the Sketch of a Solution to Them’, *Political Theory*, Vol. 32, No. 2 (April 2004), p. 173; also Critchley, S., *The Problem With Levinas*, Oxford: Oxford University Press, 2015, p. 73.

²⁵ Agamben, G., *Means Without End: Notes on Politics*, Minneapolis, University of Minnesota Press, 2000, p. 64.

²⁶ Žižek, S., *Against the Double Blackmail: Refugees, Terror and Other Troubles with the Neighbours*, London: Allen Lane, 2015, p. 9.

precisely morally irresponsible, an invitation to quietude; is it easier, in the context of refugees, to resolve the conflicts in Syria, Eritrea, Sudan – where such ‘fixes’ will always risk resembling or instantiating a form of neo-colonialism – or rather to admit those who flee from those states? Are the total numbers of refugees anywhere near to being too high to admit, relative to the population, land mass and wealth of the ‘global north’ to which they flee?²⁷

The reason such an ethos or thinking of the relationship between justice and the state is needed, is also that which Arendt identifies in the section of *Origins of Totalitarianism* entitled ‘The Perplexities of the Rights of Man’.²⁸ There is a political problem if the Rights of Man adhere only as liberal universal rights that are made manifest in an individual’s status as a citizen of a state. What is to be done when there emerges a significant population of concern who are stateless, and thus not covered by citizenship rights, and when political power remains largely within the purview of the nation-state? Might it be possible to re-cast the meaning of the state, and to ask what sovereignty means: is it simply self-preservation, or can it also be a mode of solicitude towards those outside its borders?²⁹ The international system that remains within the mode of state sovereignty, in order to address the demand of human dignity, requires an *ethos* that covers the needs demanded by the condition of plurality, and the tension between the Rights of Man *and* the Citizen, where these are not coterminous.³⁰

In formulating an ethos of responsibility, the thought of Levinas entails both a thinking with and against Arendt. Arendt, to be sure, is the first one to clarify in politico-philosophical terms the problems of stateless persons before, during and after the Second World War. But her analysis of how this plight is to be understood is contrary to Levinas, and the difference centres on their treatment of the classical French Revolutionary concept of the Rights of Man. For Arendt, the solution to this is not found in the natural ‘Rights of Man’, but rather in a political arrangement (which is never entirely explicated in her work). The guarantee of this right, comes from Arendt in the form of the ‘Right to have Rights’, which is to say, mutual-promise making between states that everyone is allowed to belong somewhere. For Levinas, however, there is a demand for a universal right to asylum – a Right of ‘Man’, of common humanity - that can be asserted: it is that which is discovered in the ethical phenomenology (rather than in Eighteenth Century natural rights), specifically in his concept of the ‘Face’. The Face is the ethical demand that calls for a response from the other person; it is the shock of encounter with the other in their vulnerability, and has what Judith Still calls an ‘affective structure’ – that is, it refers to a commonality of affect shared amongst human beings, that founds the principles or ‘laws’ of hospitality.³¹ For Levinas, the Rights of Man are the rights of the *other* man, the responsibility that the other places upon the subject.

²⁷ I take ‘global north’ to include Southern Hemisphere states such as Australia and New Zealand.

²⁸ *The Origins of Totalitarianism*, pp. 290-302.

²⁹ Sovereignty as responsibility is also a theme of another significant ethico-political question - that of intervention in the affairs of other states to prevent harms against people, which raises the same question as posed here: is responsibility itself coterminous with the activity of politics and the identity of political actors, or an optional, contingent supplement to it? See Annan, K., ‘Two Concepts of Sovereignty’, in *The Economist*, 16th September 1999.

³⁰ See also the work of Giorgio Agamben, who takes up this theme from Arendt in his most influential text: Agamben, G., *Homo Sacer: Sovereign Power and Bare Life*, Stanford: Stanford University Press, 1998, pp. 126-127.

³¹ Still, J., *Derrida and Hospitality: Theory and Practice*, Edinburgh: Edinburgh University Press, 2013, p. 5. Still writes that the reference to law in this context ‘[...] denotes both the political domain of laws and rights, and also a socially situated moral code.’ (p. 5). One might think this distinction between juridical and moral laws in the context of Greek Tragedy – the famous division between Antigone and Creon as to which law needs to be

Why do the Rights of Man matter? Because they establish *criterion for judgment* in an ethos of responsibility. What is the ethos of responsibility that can or should govern the behaviour of states toward vulnerable suppliants? The Levinasian perspective on the Rights of Man – discussed in detail in Chapter Two – provides a means of exercising judgment in relation to a state’s comportment towards refugees and asylum-seekers that is understood via a particular ethics; the shock of the encounter with the Face may itself produce change, in certain exceptional moments (such as the images of Alayn Kurdi), but more importantly, represents the locus of human dignity, summarised in Levinas’s phrase: ‘in the face, a right is there’.³² This is why, contrary to Arendt’s argument, the ‘Rights of Man’ need to be defended, as the infinitely demanding ground of an ethos of responsibility, by which asylum politics can be measured and judged – which then, as Arendt argues, needs to enter in political decisions and promise-making.

But one might ask here, does not political thinking already treat this theme in its own ways – for example, the work of John Rawls and his *Theory of Justice*, where justice is elaborated as a kind of fairness, or in other work on cosmopolitanism, refugees and ethics? What exactly can the work of Levinas and Derrida contribute to extant political theory, political philosophy or political science? What might these disciplines be lacking on these subjects?

The argument of this thesis is that broadly speaking, extant political theory (and political philosophy, science et al) can be critiqued on the topic of hospitality in three fundamental ways.

Firstly, a thinking of such Levinasian themes as the ethical subject, and the way in which the subject is exposed to the infinite (in Descartes’ sense of the infinite-in-me that exceeds my conscious grasp) and thus to transcendence, may reorient a thinking of the political in relation to asylum. The essence of the human does not lie in political association or participation, so far as Levinas is concerned, and it may be that he provides better reasons for thinking an ethos of responsibility than a strictly political argument. The distinction between the civic and the human community becomes vital – and separates Levinas from thinkers like Arendt and Aristotle. Arendt remained a strict Heideggerian in that for her, as for Heidegger, the relation to the other person is not primarily an ethical relation; ethics, the relation to others, emerges from the condition of plurality, of being as a living-amongst-men, in Aristotle’s sense that man is a *zoon politikon*, a political animal. For Levinas, ethics is prior to ontology; and the subject is already a dignified subject, prior to the formal civic granting of a right, in that the experience of the Face reveals a vulnerability and solicits an ethical response from one subject to another. The human being is always already a *responsible* subject, that is, called to a responsibility by the other person, and this ethical relation does not emerge from an ontological status, but is rather itself the pre-ontological locus of the subject. Being responsible for others thus constitutes the very ground of the political – and the city or state becomes the site where this responsibility is made manifest. The work of justice – of weighing competing interests in the polity – is the working through of that responsibility in political, that is, finite, justiciable terms, but a justice that is founded in the sense of responsibility as revealed by transcendence – an infinite demand in the Face of the other person. Thus, an ethical *transcendence* – neither theological or spiritual, but rather

followed in a given context (especially as Still refers to the ‘unwritten’ code, which can’t but make one think of Antigone) – Still notes that the ‘spirit of welcome’ towards foreigners that is proffered by residents is not always reflected in political action (p. 6). This will be explored with reference to the *Oresteia* in Chapter Six. The ‘socially situated moral code’ is also that which ‘[...] regulates the economy of hospitality – any requirement for giving without any return, or for reciprocity, or for rights and duties.’ (p. 5) As will be seen below, the putting into question of reciprocity in the context of the politics of hospitality is a central concern to be pursued throughout.

³² Levinas, E., ‘The Face of a Stranger’, p. 66.

derived from an understanding of phenomenology and the way in which the infinite overflows the subject's ability to represent it – founds and orients the understanding of political justice.

Secondly, theories of justice propounded by political philosophers do not emphasise the moral force of *encountering* vulnerable people in their plight.³³ While phenomenology is present in some political theory, Levinasian *ethical* phenomenology is often lacking. Husserl's phenomenological rallying cry: 'To the things themselves!' – applies in the ethical context here, to the ontological plight of distressed human beings, that is to say in the very facticity of their vulnerability; and the kind of response engendered to such situations may well be forcefully modified by this more direct encounter and understanding, beyond the formal contractualism of say, a Rawlsian approach. As Levinas puts it: 'We must ask ourselves if liberalism is all we need to achieve an authentic *dignity* for the human subject'.³⁴ [emphasis added] The phenomenological ethics of Levinas opens up a different *possibility* of response.

Thirdly, it will be argued that both the theory and practice of hospitality are bounded by an implicit sense of moderation and proportion, which is nevertheless often unexamined. Assumptions about appropriate limits of asylum – the numbers of people that a state can welcome or accommodate – are often asserted without being substantiated. *Who knows what the limits of welcome and asylum are, and who can say what they are?* In the face of this uncertainty, not only theorists but political actors – including and perhaps especially Western states³⁵ – very often seem to fall upon the side of conservatism or outright exclusion; there is an absence of risk-taking, of allowing something to happen, and an emphasis on control and securitization.³⁶ And in the work of Jacques Derrida, a recurrent theme is that of *impossibility* – of testing limits and measure, in the name of a deconstructive idea of justice. Allowing something to happen, or responding to something that happens – an encounter with an event – engenders the possibility of the impossible, that an interruption to that which was hitherto considered unrealizable may be realizable. In the non-reduction of responsibility to calculability, Derrida's arguments in relation to responsibility as an experience of the impossible, are also important in this context.³⁷

³³ There are other examples of such responses to Rawls within extant political theory – for example, Jeremy Waldron's article 'On the Road: Good Samaritans and Compelling Duties' (*Santa Clara Law Review*, Vol. 40, no. 4, 2000, pp. 1053-1103) – but what they lack in my view is that grounding in an ethical phenomenology which would deepen our understanding of why people have affirmative responses to others in need. One can arrive at an ethical response via a process of ratiocination, but there is another access to the ethical demand which is more immediate, grounded in lived experience of the intersubjective – this Levinasian perspective is (partly, not entirely) lacking in extant political theory.

³⁴ Levinas, E., 'Reflections on the Philosophy of Hitlerism', trans. Sean Hand, in *Critical Inquiry*, No. 17 Autumn 1990, p. 63. This article first appeared in 1934 and is often regarded as a remarkably prescient piece on the fundamental implications of Nazism – see Agamben's remarks in *Homo Sacer*, pp. 151-153.

³⁵ Significant numbers of asylum-seekers and refugees are hosted in the developing, as opposed to the developed, world. For an overview see: <http://popstats.unhcr.org/en/overview>, retrieved 5/7/2016.

³⁶ As Raoul Moati puts it: 'the universal reach of the moral dissolves in the moment that it is placed under the stewardship of the political as the exclusive practical principle of human phenomena. Here its universality then finds itself repurposed for "the functions of prudence" (22. T&I), which refers, in the Aristotelian tradition, to those situations in which practical intelligence is dominated by politics, perverted by ruse and calculation.' Moati, R., *Levinas and the Night of Being*, New York: Fordham University Press, 2017, p. 2.

³⁷ See Raffoul, F., *The Origins of Responsibility*, p. 7: '[...] for Derrida, responsible decision takes place as a leap and absolute risk beyond knowledge, in an abyssal experience of the undecidable'. See also (among numerous other texts to be discussed in Chapter Three) Derrida's reflections on responsibility in Derrida, J., *The Gift of Death and Literature in Secret*, Chicago and London: University of Chicago Press, 2008, pp. 1-12 and passim.

And yet a critical – even radical – note might be made here in relation to Derrida. For a thinker of an often hyperbolic ethics, doesn't he nevertheless re-inscribe the politics of asylum firmly within a rubric of hospitality, of the *host* in charge of the house - which is to say, of economy, of *oikonomia*³⁸, the laws of the household?³⁹ In other words, the appeal to limits issues from the image of *the household as the false synecdoche of the state*. It might even be argued that the word 'hospitality' in the context of refugees is misleading. If refugees ultimately do not pose or impose any kind of threat or limit-condition to states – as might be argued, within certain protocols to be established – then perhaps this term, in implying a limit, is misleading, and one should simply speak of an ethics or politics of refuge, or welcoming, or response, and forego the very term hospitality (whence this privilege accorded to this word and its etymology?). The tension that governs hospitality and its limits seems identical to that implicit in the notion of economy, where *scarcity* – the limited nature of resources in the face of unlimited wants – has to be negotiated. But are there unlimited wants, in the context of political asylum? Are there limited resources, does the state meet its limits in this context? Does it depend which state or group of states are in question (to be sure, Tuvalu does not have the same capacity to provide refuge as the United States)? It may be that there are limits and a need for measure – but what is the measure of measure?

This ostensible moderation (which might be considered more properly as an unjustified conservatism, a preservation of existing order that has not properly examined the actual consequences and risks of hospitality), can be identified with a notion of justice as measure. It will be argued that there is a problem with thinking justice within the bounds of measure, in Theodor Adorno's phrase, 'The doctrine inculcated since Aristotle that moderation is the virtue appropriate to reasonable people'.⁴⁰ Aristotle famously coined the notion of the Golden Mean, and defined justice as measure, and injustice as excess⁴¹. This kind of thinking becomes operative as what is here named the '*Calculus of Moderation*' - the imposition of reasonable-seeming limits to welcome that are often not grounded in much more than assertion. There is a kind of implicit good sense to moderation, of not going to far, of keeping to limits; but one can ask what the measure of measure itself is, and whether measure should set the limit to justice. The argument to be pursued throughout can be seen in part as an *agon*, a struggle, wrestling-match or contest, with Aristotle, in that Levinas and Derrida can to some extent be understood as anti-Aristotleans, in that they see justice as bound up with the exceeding of limits. In the thought of Levinas, there is an infinite demand that comes from the appeal of the other person for assistance; in Derrida, a thinking of impossibility produces ruptures with the ostensibly possible. They seek to think the ethical and the demands of justice beyond the economic and the calculative, even as they are aware that their gestures must ultimately be tied back to a form of practical decision, which will be explored in the latter chapters. That is to say, that one ought to consider the *possibility* that *in ethical relations with others, it may be necessary to go beyond the moderate, to be excessive* – in the context of the politics of asylum, for example, by admitting to safety a significant population of asylum-seekers, without first delimiting them by their reduction to numbers. What Aristotle bequeaths to political thought – in a subterranean, often unarticulated way

³⁸ Giorgio Agamben examines *oikonomia* in relation to politics at length in *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*, Stanford: Stanford University Press, 2011. However, the focus on 'theological genealogy' – a thinking of *oikonomia* largely in relation to Christian thought – takes Agamben's arguments beyond the considerations of this argument, which does not treat theology in depth.

³⁹ See Derrida, J., (trans. Stocker, B., and Morlock, F.) 'Hostipitality', in *Angelaki: Journal of the Theoretical Humanities*, Volume 5, No. 3, December 2000, p. 4.

⁴⁰ Adorno, T., *Minima Moralia: Reflections from Damaged Life*, London and New York: Verso Books, 2005, p. 139.

⁴¹ Aristotle, *Nicomachean Ethics*, Book V, London: Penguin, 2004. P. 119: 'So justice is a sort of proportion'; p. 128: 'Injustice, on the contrary, is a state that chooses what is unjust, ie. excess and deficiency, in defiance of proportion'.

in terms of its uptake in modern politics - is a sense that the calculable is sufficient.⁴² But at certain moments one should be precisely excessive – that is gracious, *gratis*, non-calculating – in order to safeguard human dignity, as the failure to protect millions of Jews in the Holocaust, or the current plight of millions of Syrian refugees, might suggest. In that sense, Levinas and Derrida, while not simply drawing from, are nevertheless in alliance with Kant, in emphasizing the need to see persons as ends in themselves, not as elements of a calculus or means to a political end. Consequently, a critique of non-Kantian ethics is pursued throughout, but one that is not delimited to the usual target of utilitarianism, but which takes aim at a spectral Aristotleanism that silently informs the politics of moderation; a moderation which could enter into virtue ethics, or indeed deontology or utilitarianism/consequentialism, and thus needing to be thought beyond a critique of utilitarianism in a broader sense. Aristotle is critiqued on at least three fronts: for thinking justice as moderation; for thinking justice/moderation as reciprocity⁴³; and for thinking the human as a political animal – for Levinas, there is a sociality prior to political association, in the encounter of the other person where one is, according to him, always already responsible.

The major strands of argument identified here are explained in detail in the following two sections.

Possibility and Impossibility: The Levinasian-Derridian ‘Chiasmus’

Chapters Two and Three of the thesis explicate the work of Levinas and Derrida on hospitality. In particular with regard to Levinas, the aim is to extend the awareness of his thought in political theory, to show how his ethics can be fecund in dealing with particular topics (the uptake of Derrida beyond philosophy is already significant, but there is a relative dearth of political theory work on Levinas).⁴⁴

What is the Levinasian ethical project? It can be summarised as a response to what he calls in short-hand '1933', which is really two linked events that are decisive for his world-view: one, Hitler's ascension to power and everything that entailed; and two, Heidegger's own '1933', his assumption of the rectorship in Freiburg under the auspices of the Nazis. Levinas's work is largely a response to a nefarious politics, and to philosophy's engagement in that politics; in both cases, it is politics that is the exigency, the concern and the motivating factor. *Levinas's post-1933 work is explicitly a response*

⁴² For a discussion of Aristotle's logic of exchange, see Gallagher, R.L., 'Incommensurability in Aristotle's Theory of Reciprocal Justice', *British Journal for the History of Philosophy*, Vol. 20, No. 4, 2012, pp. 667-701. The reference to incommensurability concerns the giving from a person of superior means to one of inferior means, where the 'exchange' relation for the superior is an increase of prestige. This problem of superiority in the giving of asylum by rich states is discussed in Chapter Five. Superiority marks another important point of difference between Aristotle and Levinas, for whom it is the other who comes from a height, and commands responsibility, where the ethical relation is not an exchange relation.

⁴³ For Levinas, responsibility is *exorbitant* responsibility; the account is never settled. William Paul Simmons illustrates the meaning of this nicely with reference to the scene towards the end of Schindler's List, where Oskar Schindler (played by Liam Neeson), having saved so many people, nevertheless reproaches himself for not having done more. See Simmons, W.P., 'The Third: Levinas's theoretical move from an-archival ethics to the realm of justice and politics', *Philosophy and Social Criticism*, Vol. 25, No. 6, 1999. p. 87.

⁴⁴ Attendant to this explication will be to correct or counter certain interpretations of Levinas. There is a strange tendency on the part of some researchers to discount Levinas while defending Derrida, and thus ignoring or negating the links between the two. The view taken here is that this is often simply in ignorance of Levinas – simply, he hasn't been read closely or well, or at all. This will be explored at greater length in Chapter Three.

to *political concerns*, even as it remained within philosophy as a discipline. Indeed, the life and works of Levinas were thoroughly marked by the Second World War, as were those of Arendt and Derrida; Levinas was imprisoned in a labour camp for Jewish soldiers, and his wife and daughter were hidden in a convent in France (Arendt fled Germany and became a stateless person, and Derrida was expelled from school for being Jewish in Vichy-run Algeria). The legacy of the war informs, explicitly or implicitly, all the work examined here.

A particular aspect of that legacy is important to distinguish in this context: after this period of calamity, the greatest number of refugees in history, to that time, were engendered by the war. And some who sought refuge encountered great difficulty, even impossibility in doing so, and many died as a result (for example, the infamous case of the 'Voyage of the Damned').⁴⁵ Thus history has demonstrated that the gravest moral consequences can attend a political failure to be hospitable.

There are two levels of engagement portended by Levinasian ethics, as a response to this problem: one at the level of the interpersonal, the other at the level of the state. One gesture of Levinas's work is to put into question notions of self-regard and self-protection, be it of the individual or of the state. A provocative reorientation that his ethics offers is the suspension of self-interest in order to take seriously the ethical demands placed on us by others. His thinking restores the face-to-face encounter as the *locus* of the ethical; but this encounter can also be thought in relation to the claims made upon state sovereignty by the vulnerable, and the possibility of response thus engendered.

The word *possibility* serves as a leitmotif for the reading of Levinas advanced in this thesis. This is a consequence of close-reading a number of his texts; over and over in his writings there is an appeal to 'possibility' in moments when he is explaining the ethical significance of his work (this is outlined in detail in Chapter Two). Possibility here refers to an *opening* of possibility. This is in contradistinction to the tired cliché that politics is the 'art of the possible', which tends to suggest limits – that politics is restricted to what is practically achievable in the immediate moment. Here the very meaning of possibility in the context of the political is reconfigured: in the Levinasian register, it means the possibility of an ethical response to others. Why possibility? Because nothing guarantees or secures, as a truth-claim, the ethical response (recall Wittgenstein's remark in his *Lecture On Ethics*: 'I can only describe my feeling by the metaphor, that, if a man could write a book on Ethics which really was a book on Ethics, this book would, with an explosion, destroy all the other books in the world'; ethics cannot be *proved* like a mathematical proof).⁴⁶ The experience of the Face opens up the possibility of that response (recall that the etymology of responsibility relates to promising or answering) – what Levinas calls the '*me voici*', the 'here I am' response back to the suffering other who calls out - which can then be acted on or ignored, but is nevertheless present *qua* possibility. The meaning of possibility, then, is inverted here from the standard colloquialism quoted above, and becomes that which challenges limits and the already existing modes of the political.

Once this possibility of a response is engendered, however, it has to be *negotiated*. The plight of refugees represents an excessive, perhaps infinite demand – the numbers are large and there will probably always be refugees. How then, to negotiate the limits of welcome, if one is to take seriously the possibility of an ethical response?

⁴⁵ See Ogilvie, S.A., and Miller, S., *Refuge Denied: The St. Louis Passengers and the Holocaust*, Madison: University of Wisconsin Press, 2006.

⁴⁶ Quoted in Critchley, S., *The Ethics of Deconstruction: Derrida and Levinas*, Edinburgh: Edinburgh University Press, 1999, 2nd Edition, p. 1.

This is where the thinking of Derrida may assist; here the emphasis is on *impossibility*, a theme often associated with Derrida via his extended treatments on the notion of *aporia*.⁴⁷ At the limit of an *aporia* – a no-way-out - knowing precisely which decision to make is impossible; but this is not quietude, but rather the very grounds of responsible decision-making, as a decision made in the certainty of what to do is not an actual decision, *decidere*, which indicates the severing of the knot of undecidability – true responsibility requires proceeding where the correct decision is always somewhat uncertain. In the context of asylum-seekers, Derrida’s thinking can be used to push considerations of hospitality to, or beyond, their limits, into that no-place where limits are no longer sovereign. In the impossible no-place beyond limits, it is possible that something else might emerge within the political: *grace*, a suspension of the calculative and of reasoning tied to the moderate. (More on this in the section below).

Thus a two-step approach is articulated: the first step is Levinas engendering the ethical *possibility* of response; the second is the *negotiation* of that response (a key term in Derridian ethics) via Derrida’s thinking of the *impossible*. Given that these philosophers are here explored in a political theory context, on a matter of great real-world import, Chapters Four and Five turn to an explication of their thinking along the lines of *praxis* – of the becoming-operative of theory. Both fall under the heading of ‘Testing the Limits’. Chapter Four does this via an analysis of their work on Cities of Refuge/Asylum; Chapter Five posits a thought-experiment around the limits of state sovereignty. The dramatic title of this chapter: ‘France Alone!’ – names the challenge of one nation, France, assuming responsibility for the entire global population of concern (all asylum-seekers, refugees and displaced persons) – why France, and why this challenge, is explained in that chapter, but the purpose of the experiment is precisely the testing of limits, in relation to asylum, along the lines of the Levinasian-Derridian *possibility of the impossible*.

In positing an ethos of responsibility, two polities which held this as a theme will be emphasized – Revolutionary France and Ancient Athens. Both appealed to hospitality as a guiding ethical principle or *raison d’être* of the state/polis, yet in both cases one can identify a difference between the self-image of these polities, and their political practices. In addition, the era before during and after the Second World War is a constant point of reference, as the emergence in modernity of significant numbers of stateless persons (which prompted Arendt’s reflections that are so vital to the present discussion.) Thus three historical epochs – Ancient Greece, Revolutionary France, and Europe in the Second World War, run through the thesis like a tri-coloured guiding thread, culminating in some reflections towards the end on the recent refugee crisis in Europe, Australia and around the world, where the numbers of people at risk are in excess of even that at the time of the Second World War.

The Calculus of Moderation

Edmund Burke, in correspondence to a friend, asserted the following:

Prudence (in all things a Virtue, in Politicks the first of Virtues). ... Believe me, Sir, in all changes in the State, Moderation is a Virtue, not only amiable but powerful. It is a

⁴⁷ This term is used in many of Derrida’s texts, but see especially Derrida, J. (trans. Dutoit, T.), *Aporias*, Stanford: Stanford University Press, 1993.

disposing, arranging, conciliating, cementing Virtue... to dare to be fearful when all about you are full of presumption and confidence...⁴⁸

Burke would seem to be suggesting that moderation is lacking in the political, that most political actors are 'full of presumption and confidence'. For the present argument the opposite will be asserted – that moderation and fearfulness are the standard political posture; that national and international politics are shot through with Burkean conservatism, that is, a kind of prudence or temperance in decision-making. And that this is true, perhaps especially true, when it comes to the politics of asylum. Questions of limits and numbers, of the need for care in the face of the unknown, govern the discourses and practices of this politics.

But the key point to note about this claim, is that such moderation is often un-substantiated. Appeals to moderation and to calculation, to numbers, limits and dangers, are asserted but rarely grounded in fact. And the assertions tend to fall upon the conservative side – of a limitation of the scope of refuge in order that the state not exceed its bounds. Thus what is here being termed the '*calculus of moderation*' is often a kind of quasi-conservatism, or at best a moderation without justification: in relation to asylum, *the calculus of moderation is the un-thought of the political*.

If a 'new guarantee' of 'human dignity' for refugees is to be posited, it must be asked what stands in the way of the achievement of this; ultimately, a question of numbers or limits, of the calculus of moderation, seems to lie at the heart of the issue: here a moral and a practical question collide and become inseparable. Moderation as a leitmotif of the politics of asylum, is here thought specifically in its *relation to numbers* – that is, not simply excessive or deficient behaviours, but moderation as a calculus, a numerical weighing of human beings. Most of the time, stateless persons do not count, that is, they are largely disregarded by indifferent or even hostile states; but they are also nothing but counted, reduced to numbers, and held in place due to concerns about numbers. Counted so as not-to-count.⁴⁹

There is of course, in elementary moral terms, much to be said for the virtues of moderation, prudence, taking care and being careful. But it can be asked whether moderation should always set the limit to what is understood by ethics or justice. Is it possible to posit justice as something which can go beyond measure (that is, not delimited by the famous image of *Justitia*, Goddess of Justice, holding the scales of measurement, calculation, balance) or indeed whether there is not a horizon of the ethical beyond justice itself, or even mercy – an aspect of grace, that which is given *gratis* and not bound to the calculative? And that this im-measure could be thought with, and against, the logic of measure that pervades the politics of hospitality? That justice, if it is to be truly just, must go beyond the Aristotlean limit of measure as the horizon of justice, when coming to terms with the potentially *infinite* demand of other human beings in their vulnerability? And would this land the political back in a newly reworked version of measure, or rather represent a permanent rupture of measure itself?

The possibility opened by the thinking pursued here is not simply for a reorientation of measure or a counter-measure, but the identification of a moment where measure ceases (to be) – a moment named as *grace* – the suspension of calculation, weight, measure, value, the advent of the

⁴⁸ Burke, E., quoted in the Introduction to *Reflections on the Revolution in France*, London: Penguin Books, 2004, p. 15.

⁴⁹ Which rather inverts Adorno's maxim in *Minima Moralia*: 'Anything that is not reified, cannot be counted and measured, ceases to exist'. It is precisely in their being counted, reduced to a calculus, that the existence of stateless persons is often threatened by being reduced to a numbered mass of bare life and denied refuge. Adorno, T., *Minima Moralia: Reflections from Damaged Life*, London and New York: Verso, 2005, p. 51, the aphorism entitled 'To them shall no thoughts be turned'.

an-economic. This theme of a challenge to moderation and a thinking of grace emerges across all the chapters of the thesis, but is the specific focus of Chapter Six. Derrida in one text defines hospitality as such: 'it is gracious'.⁵⁰ So ethics is hospitality, and hospitality is graciousness. (Levinas makes similar remarks, which are discussed in subsequent chapters.) Grace would be that which suspends calculation, and in Chapter Six this gesture is taken up via an interpretation of Athena's gesture towards Orestes in the *Oresteian Trilogy*, which is analysed in that chapter. It is there argued that Aeschylus can be understood as providing a working-through of the political problem of asylum by instituting not only a legal process, as many commentators have noted, but much less well recognized, also an *ethos* of grace, of allowing and welcome – what is this enigmatic gesture that Athena makes, beyond the ostensible privileging of the male, in instantiating a form of political justice? Grace in this context should be seen not only beyond justice but also mercy; grace is that which should 'season justice', as opposed to or in addition to mercy (as is suggested in *The Merchant of Venice*); mercy itself is etymologically too bound up with merchants, with wages and merchandise, that is with economy, calculation and exchange; whereas the thinking pursued throughout asks whether it is possible to think ethics beyond the calculative. One way to understand this is via philosopher Andrew Benjamin's idea of the 'caesura of allowing', as that which interrupts or suspends measure (his work is analysed alongside his reflections on Walter Benjamin, in Chapter Six). The conclusion ends with some reflections on how recent political events seem to confirm the import and indeed efficacy of the theses pursued throughout.

A primary target, one might say a nemesis for the argument to be developed, is Aristotle. However, the critique is implicit rather than explicit in nature; it pertains to his thinking of justice, not to non-existent pronouncements on the limitations to be set in relation to refugees. As discussed above, Aristotle is not an instrumental or utilitarian thinker (and at first blush, Utilitarianism might seem a more appropriate target for critique in this context), nor, of course, did he write about stateless persons seeking asylum. But nor is this thesis an explication of simply a Kantian thesis, wherein a deontological position is ranged against a utilitarian or consequentialist position (though Kant will be of some importance in developing portions of the argument).⁵¹ Rather it is a question of getting at the logic of a way of thinking about what justice is, what it means, and how it is to be practiced. The calculus of moderation is explicitly a critique of Aristotlean ethics in their manifestation as reciprocity⁵², proportionality and measure. In political claims to the limitation of a right to asylum,

⁵⁰ Derrida, J., and Dufourmantelle, A., *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, Stanford: Stanford University Press, 2000, p. 83.

⁵¹ Indeed, Max Weber wrote of an 'ethics of responsibility' in political terms, but with a consequentialist emphasis. See Weber, M. (ed. Owen, D., and Strong, T.B., trans. Livingstone, R.) *The Vocation Lectures: Science as a Vocation, Politics as a Vocation*, Indianapolis: Hackett Publishing Company Inc, 2004, p. 83. The ethos of responsibility articulated here is set beyond the deontological-consequentialist divide, raising a different set of problems derived from the thinking of the thinkers being examined – particularly Levinas and Derrida, but also Arendt, Aristotle and others. It is a matter of asking how responsibility is to be understood and what it generates in terms of a political ethics that will secure human dignity; on this score it is closer to deontology, but not coterminous with it, as the understanding of ethics is not derived from Kantian reason but from Levinas's work in phenomenology, Derrida's articulations in relation to deconstruction and so on.

⁵² There are instances in which acting from a posture of reciprocity would have good ethical consequences for people seeking asylum. For example, the Refugee Convention, in providing a right of non-refoulement but not a right of entry, legitimates a situation where responsibility-sharing amongst states is not fairly distributed; states in proximity to conflict zones or who receive large numbers of refugees are obliged to not return refugees once they have entered, but non-front-line states are not similarly obliged as, being further from the sources of migrant flows, they are not faced with the issue of non-refoulement. Indeed, Arendt's concept of the Right to Have Rights – further discussed in Chapter One – would seem to entail reciprocity in the form of promises made between 'newly defined territorial entities', or states, that stateless persons do have the right to belong

there is very often an appeal to a sense of measure – of the need to observe a limit – and this appeal is shot through modern politics (few states evince a more open postulate of welcoming). A difficulty arises in distinguishing true moderation (because to be sure, at some points there may well be limits) from what is actually a mean-spiritedness. Thus the syntagm ‘calculus of moderation’ puts in question moderation qua calculus, that is, it asks what the measure of measure itself truly is. What are the limits, and who can say what they are? This will help to clarify two matters of especial importance in this context: 1) the ability to distinguish between genuine appeals to moderation, and those that are simply mean-spirited; and, of particular importance 2) the need to recognize the possibility that in ethical relations with others – the transcendent or infinite appeal that the other can make – it is necessary to go beyond the moderate and the calculable. Thus Aristotle is ranged against Levinas, for whom a sense of the infinite or transcendent obligation is prior to justice, and founds it, a point which is then explored in Chapter Six in relation to Athena’s gesture towards Orestes in *The Eumenides*, where grace names the advent of an ethical moment that is prior to justice, but founds and orients it.

The thinking of hospitality pursued via an emphasis on phenomenology and a rethinking of limits taken from these philosophers, ventures suggestions in the direction of a new political principle, or what is here described as an *ethos*, that might go some way to addressing the guarantee of human dignity that Arendt sought. Ultimately, this argument is couched in normative terms – the underlying assumption animating this thinking is a re-thinking of politics in terms of justice, and a justice that is anti-Aristotlean, or which at least suggests a horizon of understanding of justice beyond the limits of measure. All of this only has any meaning if one considers that politics *ought* to be just and to aim at justice, and that human dignity is an essential good, which in the end risks seeming a mere assertion – a realist might well take aim at such a position. But it will be argued that the persuasive force of Levinas’s ethical philosophy takes the ethical beyond the realm of assertion, into a realm that is borne out by lived experience, where *responsibility* is fundamental to the human condition. It is maintained here as a legitimate, defensible position, and one at least worthy of consideration, even if in contradistinction to realism or to liberal theories of justice (or even other ethical modes of political theory). It offers one more set of *possibilities* in thinking through and negotiating in practice the very difficult issues relating to the politics of asylum.

somewhere. The present argument is not against reciprocity as such, but rather suggests that reciprocity should not set the limit to an ethics of hospitality, particularly in times of crisis, when great populations of people need rescuing from imminent threats.

CHAPTER ONE: A NEW GUARANTEE OF HUMAN DIGNITY

Introduction

The political problem being addressed is how to ensure the human dignity of stateless persons, given the problem of rightlessness that arises when human beings lose the protection of their human rights *qua* citizens of a state. At the level of practical politics this problem has an urgent character; but how should practice be oriented, in ethical terms? And how can political theory *think* this problem, and thus suggest responses for praxis? While there is a political problem, there are also theoretical issues that need to be addressed in order that a proper understanding be developed.

Much of the work to follow is focused upon the thought of Emmanuel Levinas and Jacques Derrida – two Continental philosophers. However, the overall approach is pursued from the perspective of *political theory*, asking what those thinkers – themselves not regarded primarily, or even at all, as political theorists, but rather as philosophers – might add to the understanding of political theorists on the topic of stateless persons. In order to proceed, it is necessary first to clarify the problem being analysed, and this was perhaps done best, and first, by a political theorist – Hannah Arendt. An abiding theme for both Arendt and Levinas was the classical French ideal of the ‘Rights of Man’, and it is thus a fruitful exercise to examine their respective views on this subject, in order to articulate the differences between them on the ethico-political issues that pertain in relation to stateless persons. While Arendt was skeptical of the Rights of Man, arguing that their basis in naturalism is politically feckless when not tethered to civic rights, Levinas argued in their favour, albeit by reconfiguring their basis from natural rights to phenomenology, and suggested that they form the very ground of the political rather than a contingent supplement to it. If the human subject is always already a responsible subject, then responsibility is not an after-effect of political agreement, but the locus of the political itself as an ethics that is worked through in the processes of justice (where justice is understood as the adjudication of competing ethical demands).

What follows will in part be a critique of Arendt, but derived from the importance of her own recognition of the plight of stateless persons, and the need to safeguard their human dignity. The argument is couched within the context of the Westphalian system of international order as it exists at the present moment – that ultimately states retain the power and the responsibility for the control of their borders. While this geopolitical reality will be challenged as the argument is developed – especially in Chapter Four on Cities of Asylum – the need to negotiate between the demands for human dignity of stateless persons, and the rights to self-determination of a sovereign state is the governing tension being addressed here, a realistic (though not realist) view of the politics of human rights which does not await a wholesale revolution in the geopolitical system of governance. To the extent that tens of millions of stateless persons do not have rights as citizens, at the present moment, then their rights simply as human beings – the Rights of ‘Man’ – need to be articulated and defended. Arendt’s idea of the ‘Right to have Rights’ remains vital in this context, but her skepticism concerning the Rights of Man need to be challenged, as Rights outside of a civic compact, understood via Levinas’s ethical thinking, are precisely what can inform the meaning of an ethos of responsibility.¹

¹ The literature on both Hannah Arendt and her idea of the ‘Right to Have Rights’ is voluminous and ever-growing; for example, a new book simply entitled *Right to Have Rights* is to be released in April 2017, and joins a book already called *The Right to Have Rights* that was released in 2012, as well as a huge secondary literature in book chapters and journal articles. This chapter will draw on a certain fund of this literature, without

The new guarantee that Arendt seeks will be posited as an *ethos* of the state; that is, to rethink sovereignty as a modality of responsibility for those outside the state, an ‘ethics of hospitality’ to use Derrida’s phrase. There are two main aspects of this *ethos* that will be introduced below and subsequently developed. The first is from the ethics of Emmanuel Levinas. In response to Arendt’s call for a new guarantee – and in light of some difficulties with her own accounting for this guarantee, in certain limitations of her views concerning subjectivity and the ethical – Levinas’s concept of the ‘Face’ will be explored as a means of articulating the *experience* of encountering the vulnerable asylum-seeker, producing the *possibility* of a response. Once that response is engendered – given the significant numbers of asylum-seekers in the world – a negotiation of the limits of welcome is required. Here is where Derrida’s thinking of the *impossible* may inform a just politics. (Derrida is largely in the background here, with the focus squarely on Arendt and Levinas, the latter being perhaps the dominant focus of the entire thesis; Derrida emerges more explicitly in Chapter Three and thereafter.)

What are the politico-philosophical problems that Arendt identified which pertain in relation to stateless persons, and what did she pose as a solution to those problems? Why might her account, and that of other political theorists, be lacking something, such that the thought of Levinas and Derrida can make a valuable contribution to extant work in this area? It will be argued that neither Arendt nor Levinas can provide a *guarantee* of human dignity, but that their thinking helps to establish *criterion for judgment* in relation to the treatment of stateless persons.

Man versus Citizen

Significant here and in later chapters is the French 1789 *Declaration of the Rights of Man and the Citizen* – which Arendt will have cause to call into question, as will be seen below. It is sometimes noticed that one can pause on the ‘and’ in the declaration – man *and* the citizen, as being different categories, not coterminous, but perhaps describing and ascribing two different sets of rights, as Agamben observes: ‘In the phrase *La déclaration des droits de l’homme et du citoyen*, it is not clear whether the two terms *homme* and *citoyen* name two autonomous beings or instead form a unitary system in which the first is always already included in the second.’² Consider the first three articles of the Declaration:

Article I - Men are born and remain free and equal in rights. Social distinctions can be based only on public utility.

Article II - The aim of every political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression.

Article III - The source of all sovereignty resides essentially in the nation. No body, no individual can exercise authority that does not explicitly proceed from it.³

purporting to give an exhaustive overview (particularly as the discussion of Levinas will require reorienting the standard terms of this discussion beyond the horizon of extant political theory as it relates to Arendt, and the taking up of other writings in this context).

² Agamben, G., *Homo Sacer: Sovereign Power and Bare Life*, Stanford: Stanford University Press, 1998, pp. 126-127.

³ Van Kley, D. (ed.), *The French Idea of Freedom: The Old Regime and the Declaration of Rights of 1789*, Stanford: Stanford University Press, 1994, p. 1.

Thus 'the goal of any political association is the conservation of the natural and imprescriptible rights of man', who are born 'free and equal'; but also, 'the principle of any sovereignty resides essentially in the Nation.' Between these articles there would seem to be an unresolvable tension. What is the *raison d'être* of the state? Is it self-interest, as in a realist conception of politics? Or do normative guidelines, in accordance with the Rights of 'Man', apply? Is the goal, the *telos*, the orienting *ethos* of the state, the 'preservation of the natural and imprescriptible rights of man', and not merely the 'citizen', as suggested in Article Two? Such a conception of the *telos* of the state would fly in the face of a realist conception of politics, and needs to be accounted for if it is to be taken seriously. What informs or justifies such an *ethos* for the state?

The National Assembly intended both to protect the individual from government power, but also for the Declaration to provide the foundation for the government, as well as the protection of property rights.⁴ Yet the efficacy of the Rights of 'Man' can be called into question where membership of a state no longer is possible. After the Second World War, the existence of a significant population of stateless persons prompted Hannah Arendt to reflect upon their political status. In the Preface to the First Edition of *The Origins of Totalitarianism*, Hannah Arendt writes of an era of calamity that has produced 'homelessness on an unprecedented scale, rootlessness to an unprecedented depth.'⁵ For those affected, 'powerlessness has become the major experience of their lives';⁶ a new group of people, who Arendt calls in German the *heimatlosen*, the stateless, had emerged.⁷ The legacy of the 'Nazi movement, then a world war, and finally the establishment of death factories', imperialism, totalitarianism, anti-semitism, and the statelessness of millions of people:

...one after the other, one more brutally than the other, have demonstrated that human dignity needs a new guarantee which can be found only in a new political principle, in a new law on earth, whose validity this time must comprehend the whole of humanity while its power must remain strictly limited, rooted in and controlled by newly defined territorial entities.⁸

The political problem that Arendt identified decades ago has reached a comparable level of urgency in the Twenty-First Century. The total population of concern – displaced persons, refugees, and asylum-seekers – has reached a level not seen since the end of the Second World War – in fact, greater than at that time.⁹

Yet Arendt drew attention to what she saw as the feckless nature of the Rights of Man, which were ineffective as soon as they were not tethered to citizenship¹⁰:

Not the loss of specific rights, then, but the loss of a community willing and able to guarantee any rights whatsoever, has been the calamity which has befallen ever-increasing numbers of people. Man, it turns out, can lose all so-called Rights of Man

⁴ *The French Idea of Freedom*, p. 6. Marx criticised the Declaration, which secures legal equality rather than actual equality – see the discussion in Hamacher, W., and Mendoza-de Jesus, R., 'On the Right to Have Rights: Human Rights; Marx and Arendt', in *CR: The New Centennial Review*, Vol. 14, No. 2, Law and Violence issue, Fall 2014, pp. 169-214.

⁵ Arendt, H., *The Origins of Totalitarianism*, New York: Harcourt, 1976, p. vii.

⁶ *The Origins of Totalitarianism*, p. vii.

⁷ *The Origins of Totalitarianism*, p. 277.

⁸ *The Origins of Totalitarianism*, p. ix.

⁹ <http://edition.cnn.com/2016/06/20/world/unhcr-displaced-peoples-report/>, retrieved 23/7/2016.

¹⁰ *The Origins of Totalitarianism*, pp. 290-302.

without losing his essential quality as a man, his human dignity. Only the loss of a polity itself expels him from humanity.¹¹

Thus Arendt joins a tradition that encompasses Jeremy Bentham, Edmund Burke and Karl Marx in evincing a suspicion or hostility with regard to natural rights. Arendt is particularly sympathetic to Burke – ‘The pragmatic soundness of Burke’s concept seems to be beyond doubt in the light of our manifold experiences’; natural rights do not go far enough or are insufficiently compelling: ‘the world found nothing sacred in the abstract nakedness of being human.’¹² And: ‘it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them.’¹³ For Arendt this was no speculative concern: it was lived experience, as Richard Bernstein writes: ‘It was these personal experiences that impressed upon her so deeply the radical contingency of events – a sense of contingency that influenced and pervaded all her thinking.’¹⁴ Arendt writes movingly in her essay ‘We Refugees’ of the danger of loss of identity faced by stateless persons ‘who, unprotected by any specific law or political convention, are nothing but human beings.’¹⁵

Natural Rights were in decline as an explanatory model of human rights long before Arendt’s critique. As Pauline Westerman notes, from at least the seventeenth century a division emerged between human dignity on the one hand, and human rights on the other.¹⁶ And to what conception of the ‘natural’ did natural rights appeal – was it to include the self-interested aspects of human nature, the less noble and agreeable features? Hugo Grotius and John Locke met this objection by referring to enlightened self-interest as the basis of rights (not dignity), whereas Samuel Pufendorf saw human dignity (and not natural rights) as deriving from the ability of Reason to understand the will of God (whereas nature is a strife-ridden, calamitous state without that will).¹⁷ The divisions between natural rights and human dignity, and their origins – dubious claims about human nature or divine provenance – had already undermined the possibility of grounding human rights in a naturalism.

It should be noted that Arendt is not entirely opposed to the Declaration – as the title of the relevant section of *Origins* suggests, she is rather articulating an active *perplexity* as to the problems and contradictions that arise when attempting to safeguard human rights by reference to such declarations. Ayten Gündoğdu highlights the ‘equivocality’ and ‘contingency’ at work in Arendt’s view of the Declaration; that is, its (positive) possibilities as well as its risks, and its historically contingent conditions of realization.¹⁸ Nevertheless Arendt is highly skeptical that we even understand what Natural Rights mean anymore¹⁹. In *Origins* she writes that ‘humanity, which for the eighteenth century, in Kantian terminology, was no more than a regulative idea, has today become an inescapable fact’.²⁰ The status of the human being has moved from the realm of the Idea into harsh facticity, but

¹¹ *The Origins of Totalitarianism*, p. 297.

¹² *The Origins of Totalitarianism*, p. 299.

¹³ *The Origins of Totalitarianism*, p. 291.

¹⁴ Bernstein, R.J., ‘Hannah Arendt on the Stateless’, *Parallax*, 2005, Vol. 11, no. 1, p. 49.

¹⁵ Arendt, H. (ed. Kohn, J., and Feldman, R.H.), ‘We Refugees’, in *The Jewish Writings*, New York: Schocken Books, 2007, pp. 273.

¹⁶ Westerman, P., ‘Natural rights versus human dignity: two conflicting traditions’, (Düwell, M., Braarvig, J., Brownsword, R., Mieth, D. eds.) *The Cambridge Handbook of Human Dignity*, Cambridge: Cambridge University Press, 2015, p. 108.

¹⁷ ‘Natural rights versus human dignity: two conflicting traditions’, pp. 115-116.

¹⁸ Gündoğdu, Ayten, *Rightlessness In An Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*, New York: Oxford University Press, 2015, p. 47.

¹⁹ *The Origins of Totalitarianism*, p. 298.

²⁰ *The Origins of Totalitarianism*, p. 298.

still lacking is a defined locus of that human dignity which Arendt seeks to protect, but cannot answer for outside the framework of natural rights that she discounts.²¹

What has emerged in modernity is a political state of exception, where statelessness or apolity represents 'a space devoid of law, a zone of anomie'.²² Stateless persons find themselves in a situation where, lacking citizenship rights and with only weak enforcement of international law, they are often unable to secure their human rights. They have, in Agamben's phrase, 'put the originary fiction of modern sovereignty in crisis. Bringing to light the difference between birth and nation, the refugee causes the secret presupposition of the political domain – bare life – to appear for an instant within that domain.'²³ The collapse of moral standards may quickly follow, as Arendt writes: 'Man is a social animal and life is not easy for him when social ties are cut off...Very few individuals have the strength to conserve their own integrity if their social, political and legal status is completely confused.'²⁴ The risk she identifies is 'that we expose ourselves to the fate of human beings who, unprotected by any specific law or political convention, *are nothing but human beings* [emphasis added].'²⁵

On this account, there is something else which needs to emerge within the political, in order to guarantee human dignity. Yet dignity is not reducible to physical life; for Arendt it emerges in a political context, a view shared by Jean Améry, a writer who lived through the horror of Auschwitz: 'It is certainly true that dignity can be bestowed only by society...and the merely individual, subjective claim ("I am a human being and as such I have my dignity, no matter what you may do or say!") is an empty academic game, or madness.'²⁶ For Arendt this is not via an appeal to natural rights, but rather a political principle: 'We became aware of the existence of a right to have rights'.²⁷ But what exactly does it mean to have a right to have rights? What is the conception of personhood, or subjectivity, or the grounding that she posits for her claim in seeking to guaranteeing human dignity? What kind of a political configuration or principle does she in fact recommend?

Gündoğdu summarises Arendt's approach:

Finally, Arendt follows the Socratic example when she concludes her inquiry aporetically and refuses to resolve the perplexities of human rights by grounding them in a new normative foundation or by putting forward a new institutional model. Her analysis suggests that the task of critical inquiry is not to offer such a resolution but instead to carefully examine how these perplexities become manifest in human rights

²¹ It should be noted that Arendt's view of natural rights is not episodal, that is, limited to what she thought at the time of writing *Origins*; many years later in a paper on the Frankfurt Auschwitz Trial, she was still maintaining this view: 'the same court had proclaimed the nonlegality of the extermination of the Jews "by referring to natural law" which, incidentally and for reasons outside these considerations, is not a very satisfactory solution either.' See Arendt, H. 'Auschwitz on Trial', in Kohn, J. (ed.) *Responsibility and Judgment*, New York: Schocken Books, 2003, p. 246.

²² Agamben, G., *State of Exception*, Chicago: University of Chicago Press, 2005, p. 50.

²³ *Homo Sacer*, p. 131.

²⁴ 'We Refugees', *The Jewish Writings*, p. 271.

²⁵ 'We Refugees', *The Jewish Writings*, p. 273.

²⁶ Améry, J., *At the Mind's Limits: Contemplations by a Survivor on Auschwitz and its Realities*, Bloomington: Indiana University Press, 1980, p. 89. Améry has precisely the same views on these matters as Arendt, it seems, for he also scorns natural rights: 'Yes, the SS could carry on just as it did: there are no natural rights, and moral categories come and go like the fashions.' (p. 11)

²⁷ *The Origins of Totalitarianism*, p. 296.

norms, institutions, and policies as well as how political actors navigate and renegotiate them in response to challenging problems of rightlessness.²⁸

Thus, Arendt offers no ‘new normative foundation’ nor ‘institutional model’ to account for the guarantee she calls for – rather remaining within a ‘Socratic’ example of aporia and perplexity which can continue to trouble and re-think the politics of human rights. For Arendt, normative claims within the political are just that – something realized within politics, the products of political activity, rather than their ground.²⁹ (This, as will be seen, is a key difference that separates her understanding of the political from that of Levinas, for whom there *is* an ethico-normative ground of politics). Arendt does refer to politics as being guided by ‘principles of justice’, *but what does that mean?* As Arendt notes, the community may not organise itself based on principles of justice. There is nothing in political community or political principles or political compacts that will guarantee justice, which is to say, the recognition of human dignity - and particularly for those not already members of the polity making the decision: ‘As a product of human artifice, the public realm is forever exposed, not only to the vast reaches of the merely given which press in upon it, but to the possibility that individuals will decide to order their relations otherwise (ie. not in accordance with principles of justice).’³⁰ As to the right to have rights, nothing compels states to make agreements between them to care for stateless persons; the total responsibility taken, in the modern era of promise-making in relation to stateless persons through treaties and reciprocally binding agreements, can be rounded down to almost zero.³¹ Yet Arendt does recognise the need for everyone to be allowed to belong somewhere.³² *Why*, if there are no normative grounds that orient the political prior to its conduct? A division between the political construction and exercise of a right, and its philosophical justification, opens on this point. James Ingram, in a discussion of the ‘Right to have Rights’, distinguishes between ‘philosophical and political approaches to human rights’, and observes that ‘human rights’ defenders are now less troubled by rights’ extra-political provenance or justification and focus more on the practical task of realizing them’; for Arendt, rights are a practice of mutual recognition in a political context, and not recognition of a dignity prior to human construction, or any ‘ontological guarantee’.³³ What Arendt recognises, as Etienne Balibar notes, is the right to have rights as a ‘right to politics’.³⁴

As will be argued below, this would seem to be an inadequate response to her own call. At the heart of the call for a right to have rights is a demand for justice – justice for stateless persons – which itself implies a recognition of human dignity. While Arendt may be skeptical about the efficacy of the Rights of Man on their own (and rightly so), she cannot, in building her account, do without them, but she is in fact secretly dependent upon a kind of naturalism, which silently informs her own project. Seyla Benhabib summarises this contradiction with great felicity:

In both cases, an anthropological normative universal is being invoked. In virtue of our humanity alone, Arendt is arguing, we are beings entitled to be treated in certain ways, and when such treatment is not accorded to us, then both wrongs and crimes

²⁸ *Rightlessness in an Age of Rights*, p. 14.

²⁹ See the discussion on this point by Muldoon, P. ‘The injustice of territoriality’, in *Critical Review of International Social and Political Philosophy*, Vol. 15, No. 5, December 2012, p. 639 and passim.

³⁰ ‘The injustice of territoriality’, p. 641.

³¹ See <http://www.refugeecouncil.org.au/getfacts/statistics/unchr2015/> - on average it would take 150 years at the current rate to resettle all refugees currently under the UNHCR mandate, effectively a life sentence to statelessness for refugees.

³² ‘the injustice of territoriality’, p. 643.

³³ Ingram, J.D., ‘What is a “Right to Have Rights”? Three Images of the Politics of Human Rights’, in *American Political Science Review*, Vol. 102, no. 4, November 2008, pp. 402 and 410.

³⁴ Balibar, E., *Masses, Classes, Ideas*, London and New York: Routledge, 1994, p.212. Quoted in Ingram, p. 410.

are committed against us. Of course, Arendt was thinking along Kantian lines that we are "moral persons", and that our humanity and our moral personality coexist. Yet these are not the terms that she will use; nor will she, like Kant, seek to ground the mutual obligation we owe one another in our capacity for acting in accordance with the principles of reason. Even her formula the "right to have rights" is frustratingly ambiguous: if we have a right to have rights, who could have removed it from us? If we do not already all have such a right, how can we acquire it? Furthermore, what is meant by "a right" in this formula: a legally recognized and guaranteed claim by the lawgiver? Or a moral claim that we, qua members of a human group, address to our fellow human beings, to be recognized as their equals? Clearly, it is the second, moral, meaning of the term *rights* that Arendt has in mind. But she is not concerned to offer a justification here. She was not a foundationalist thinker and she stayed away from strategies of normative justification. Her belated reflections on Kant's doctrine of judgment reveal, however, the extent to which she was and remained a moral universalist and modernist.³⁵

Does not a guarantee such as she demands require a conception of human dignity to which political actors – states or others – can be held accountable? Without such a conception, does not the Right to Have Rights risk a kind of circularity, guaranteed only by political promise-making attached to no determinate conception of the good, and thus referring only to itself? For Arendt the human good is found the capacity for action, exercised in conditions of *plurality*, where agreements must be kept – yet as will be seen further on, if democratic action itself can involve decisions that contravene human dignity, it would seem that some extra-political principles need apply. There is a danger in this, if no right precedes the political, as Hamacher and Jesús note: 'If the "right to have rights" is understood exclusively in accordance with its "legal-formity" (Rechtsförmigkeit) and interpreted as a program for nothing other than rights, then with the loss of this right must be extinguished as well every claim to politics and every claim that goes beyond the form of the political or that deviates from it.'³⁶ Is there not in fact something like a normative foundation to be discovered, and even more – an *ethos* of hospitality, of sovereignty-as-responsibility, that can guide political *praxis* on this question, an extra-political criterion for forming judgments in relation to the political, which emerges from calamity, that is, the disaster that follow denationalization in the war? One might agree with her that the Rights of Man are insufficient, but perhaps this can be taken dialectically both ways – that political promise-making left to itself is also inadequate (which will be explored further below, in the case of Denmark and refugees in the Second World War).

Her view would seem to remain bounded largely within the sphere of positive law, informed by the condition of plurality, which is itself not an ethical category, but an ontological description of humanity. But as Leo Strauss aptly puts it, positive law must appeal to something beyond itself:

To reject natural right is tantamount to saying that all right is positive right, and this means that what is right is determined exclusively by the legislators and the courts of the various countries. Now it is obviously meaningful, and sometimes even necessary, to speak of "unjust" laws or "unjust" decisions. In passing such judgments, we imply

³⁵ Benhabib, S., *The Reluctant Modernism of Hannah Arendt*, New York: Rowman & Littlefield, 1996, p. 185. Benhabib's phrase 'anthropological normative universal' is derived from her interpretation of *The Human Condition*, where the idea of human *plurality* and its articulation provide an anthropology that can be seen as a normative foundation of the political.

³⁶ 'On the Right to Have Rights...', p. 188.

that there is a standard of right and wrong independent of positive right and higher than positive right: a standard with reference we are able to judge our positive right.³⁷

One can agree with Strauss' critique of positive law/rights, without retreating back into natural rights. If, as Arendt maintains, the Rights of Man qua *natural* rights are no longer tenable, and yet we cannot do without a sense of rights that go beyond positive rights - then the Rights of Man require reformulation along different lines. This is the problem that Levinas takes up in rethinking those Rights via phenomenology, which will be considered below and at greater length in the next chapter.

Grounding the Guarantee – Some Problems with Arendt's account

Before getting to those arguments, more about Arendt's own approach can be elaborated. Careful reading of Arendt's later writings on ethics – in particular *Eichmann in Jerusalem*, her lectures on Kant, and the essays collected in the volume *Responsibility and Judgment* – is important to understand just where the locus of the ethical resides for her. In short, it is found in reason and the process of thinking, the dialogue of the two-in-one, the conversation with oneself. In other words, the defences against thoughtlessness that she marshals in the post-war, post-Eichmann world are not in any postulation of natural rights or, like Levinas, a phenomenology of experience that has an ethical signification, but rather in processes of reason, political principles and institutions – which, as noted above, are nevertheless left unspecified. If the problem in the Twentieth Century was thoughtlessness, then the imperative is to continue thinking, and thus her warning at the beginning of *Between Past and Future*: 'Their [the essays] only aim is to gain experience in how to think; they do not contain prescriptions on what to think or which truths to hold.'³⁸ Jerome Kohn observes that for Arendt, 'the only standards of judgment with any degree of dependability are in no sense handed down from above but emerge from human plurality, *the* condition of politics.'³⁹ Arendt evinces a fundamental mistrust of transcendent principles that emerge from outside political frameworks of human plurality and mutual promise-making, as well as emotional appeals within politics: 'Generally speaking, the role of the "heart" in politics seems to me altogether questionable...how often these emotions are used in order to conceal factual truth.'⁴⁰ Her approach is to distinguish the human condition from human nature⁴¹, and to focus upon the former: 'Thus the language of the Romans, perhaps the most political people we have known, used the words "to live" and "to be among men" (*inter homines esse*) ...as synonyms.'⁴² Her phenomenology is one of relationality, but not (as in Levinas), a relation that is originally ethical in the sense of an irremissible responsibility for the other person. Arendt distinguishes between morality, which belongs to the private sphere, and politics, which requires agreement amongst plural beings.⁴³ And though Aristotle held that 'the real difference between man and other animals is that humans alone have perception of good and evil, just and unjust'⁴⁴ – for Arendt, there is no sense of justice that is common to all, and when justice moves from

³⁷ Strauss, L., *Natural Right and History*, Chicago: University of Chicago Press, 1965, p. 2.

³⁸ Arendt, H., *Between Past and Future: Eight Exercises in Political Thought*, London: Penguin Books, 2006, p. 14.

³⁹ From the Introduction by Jerome Kohn to Arendt, H., (ed. Kohn, J.) *The Promise of Politics*, New York: Schocken Books, 2005, p. x.

⁴⁰ 'The Eichmann Controversy: A Letter to Gershom Scholem', *The Jewish Writings*, p. 467.

⁴¹ Arendt, H., *The Human Condition*, Chicago: University of Chicago Press, 1998, pp. 7-8.

⁴² *The Human Condition*, pp. 9-10.

⁴³ 'Collective Responsibility', *Responsibility and Judgment*, p. 153.

⁴⁴ Aristotle, *The Politics*, London: Penguin Books, 1992, p. 60.

being a contingent yardstick to something achievable within the world, it ‘...simply abolishes men.’⁴⁵ Indeed, Arendt has a moral purpose in delimiting moral absolutes: as Anya Topolski writes, ‘Arendt reiterates that absolute guarantees, such as those promised by ideologies, and total certainty are not possible in the realm of human interactions without destroying those spaces.’⁴⁶ For Arendt, what makes Kant’s ethics ‘inhuman’ is its absolutism, and lack of room for contingency and freedom. Moreover, it is plurality that reminds the responsible subject that, in Judith Butler’s words, ‘there is no right to choose with whom to cohabit the earth or world’.⁴⁷

Thus while Arendt writes of human dignity and of evil and the need for justice, she never provides a final ground of how these are to be understood. Evil contravenes human dignity, and dignity, as the worth of the person, is connected with the treatment proper to the human, a sense of morality. For her, the nature of evil is a product of thoughtlessness, of a failure to think. And evil is an affront to morality, but what is morality? Rather than defining morality explicitly, it is for the human actor to determine for themselves:

Morality concerns the individual in his singularity. The criterion of right and wrong, the answer to the question, what ought I to do? depends in the last analysis neither on habit and customs, which I share with those around me, nor on a command of either divine or human origin, but on what I decide with regard to myself. In other words, I cannot do certain things, because having done them I shall no longer be able to live with myself.⁴⁸

In this, she draws a distinction between a Platonic and a Socratic approach to seeking the truth: the difference between Ideas that guide one to the correct answer, versus a dialogic approach where via thought and argumentation, an answer (or lack thereof) is arrived at.⁴⁹ Arendt, in focusing on the Socratic ‘two-in-one’ and the necessity of having to live with oneself, seems to side mostly with Socrates in positing *conscience* (the subjection of oneself to moral measure) as the product of this inner dialogue, rather than the application of guiding principles: ‘I have great confidence in Lessing’s *selbstdenken* [thinking for oneself], for which, I think, no ideology, no public opinion, and no “convictions” can ever be a substitute.’⁵⁰

The faculty of judgement becomes essential for Arendt at this point; the task of thinking that is required in order to combat the evil of thoughtlessness requires the exercise of judgement, even if there is no normative core, no ‘banister’ to ensure correct decisions: ‘Particular questions must receive particular answers; and if the series of crises in which we have lived since the beginning of the century can teach us anything at all, it is, I think, the simple fact that there are no general standards to determine our judgments unfailingly, no general rules under which to subsume the particular cases with any degree of certainty.’⁵¹ As well as the Socratic thought of having to live with oneself, Arendt

⁴⁵ Arendt, H., passage quoted from ‘Denktagebuch’ [book of thoughts], in *The Promise of Politics*, p. 3.

⁴⁶ Topolski, A., Arendt, *Levinas and a Politics of Relationality*, London and New York: Rowman and Littlefield, 2015, p. 79. For the comment on the ‘inhumanity’ of Kant’s ethics, see ‘On Humanity in Dark Times: Thoughts About Lessing’ (trans. Winston, C., and Winston, R.), in Arendt, H., *Men in Dark Times*, San Diego, New York and London: Harvest Brace & Company, 1983, p. 27.

⁴⁷ Butler, J., ‘Arendt’s Death Sentences’, *Comparative Literature Studies*, Vol. 48, No. 3, Special Issue Trials of Trauma, 2011, pp. 280-295.

⁴⁸ Arendt, H., ‘Some Questions of Moral Philosophy’, in *Responsibility and Judgment*, p. 97.

⁴⁹ ‘Some Questions of Moral Philosophy’, pp. 82-92.

⁵⁰ ‘The Eichmann Controversy: A Letter to Gershom Scholem’, in *The Jewish Writings*, p. 470.

⁵¹ *Responsibility and Judgment*, p. vii. Jerome Kohn in the Introduction notes that Arendt had seen a reversal of “thou shalt not kill” into “thou shalt kill” during the war, then another reversal afterwards: ‘Had not Nietzsche

focuses in these later writings – in an unusual move - on the work of Kant on aesthetics, in *The Critique of Judgement*, which is the only extended treatise on this faculty in the history of philosophy, even if Kant's approach does not overtly treat moral themes. Arendt offers some explanation as to why she takes this approach:

[...] the reason why I believe so much in Kant's *Critique of Judgement* is not because I am interested in aesthetics but because I believe that the way which we say "that is right, that is wrong" is not very different from the way in which we say "this is beautiful, this is ugly." That is, we are not prepared to meet the *phenomena*, so to speak, head-on, without any preconceived system.⁵² [emphasis added]

The word *phenomena* is key for the analysis in what follows. On this term, an important point of difference can be articulated between Arendt and Levinas – and, as we will see, it is in relation to the phenomena of ethics that the work of Levinas fills a lacuna in Arendt's thought. Both are phenomenologists; both students of Heidegger; they were contemporaries (both born in 1906); both Jews directly impacted by the events of the Second World War; both driven by a need to confront those horrors intellectually. However, the character of their phenomenology leads them to very different conclusions.⁵³

Ronald Beiner observes in his essay exploring Arendt's lectures on Kant that 'For Arendt, politics is defined by phenomenality, as self-disclosure in a space of appearances.'⁵⁴ In her own words: '...in order to become aware of appearances we first must be free to establish a certain distance between ourselves and the object...we will not seize what we admire but let it be as it is, in its appearance'.⁵⁵ Not seizing but letting-be – this is Heideggerian language. But why is attention to phenomena important for a political philosophy? Wordly phenomena put a 'claim on our thinking attention that all events and facts make by virtue of their existence.'⁵⁶ Being aware of events and facts and responding to them with thought is what allows for judgement, as Beiner notes:

Judgement discriminates among the self-disclosive phenomena and captures phenomenal appearance in its fullness. Accordingly, the capacity of judgement for discerning the qualities of the particular without prior subsumption under a universal is closely related to the nature of politics as disclosure. Judgement, as it were, confirms the being of that which has been disclosed. Thus it is in a very emphatic sense that human judgement always proceeds in a world of appearances.⁵⁷

been finally proved right in holding that the principles from which the norms and standards of human conduct are derived are *exchangeable* values?' (p. xviii)

⁵² Bruehl, E-Y, *Hannah Arendt: For Love of the World*, 2nd Edition, New Haven: Yale University Press, 2004, p. 452.

⁵³ There are other parts of Arendt's work that could be treated here – her theme of 'persona' – a mask and the sounding-through that allows the voice to be heard (this would be interesting to explore in the context of Levinas and the Saying and the Said); her emphasis on friendship (for example, in the address to receive the Lessing Prize), which nevertheless might raise the problem of a kind of quasi-Schmittianism; but it is as phenomenologists that Arendt and Levinas are most comparable. And in these other ethical postulations, the critique made here would remain the same – ultimately there is not a compelling normative ground offered as to why human dignity should be guaranteed; in her work this claim seems to function as a self-evident good (which it may seem to be, but it still requires elaboration, and Levinas provides such an elaboration).

⁵⁴ Arendt, H. (ed. And with an Interpretive Essay by Ronald Beiner), *Lectures on Kant's Political Philosophy*, Chicago: University of Chicago Press, 1992, p. 110.

⁵⁵ *Lectures on Kant's Political Philosophy*, p. 110.

⁵⁶ *Rightlessness In An Age of Rights*, p. 30.

⁵⁷ *Lectures on Kant's Political Philosophy*, p. 111.

Judgement is exercised, but without predetermined rules or norms that will guide that judgement, akin to the role that taste plays in aesthetics:

Kant himself analysed primarily aesthetic judgements, because it seemed to him that only in this field do we judge without having general rules which are either demonstrably true or self-evident to go by. If therefore I shall now use his results for the field of morality, I assume that the field of human intercourse and conduct and the *phenomena* we confront in it are somehow of the same nature.⁵⁸ [emphasis added]

Arendt, in attempting to articulate a ‘halfway plausible theory of ethics’,⁵⁹ is working without banisters; what she is then left with is the faculty of judgement, the two-in-one, the need for thought to not contradict itself, and to exercise judgment in a way where one will be able to live with oneself. But in confronting evil, or seeking to preserve human dignity, she is not able to account for just what is being affronted in evil, the affronted ontological being, the locus of the dignified human. Arendt notes that some people can distinguish right from wrong – but this begs the question, what do right and wrong mean? Arendt recognizes the need to stop human beings from being rendered superfluous, but why does this even matter?

Arendt would seem here to run into the same criticism often faced by Foucault – how to posit the value of what one is defending without grounding it in any conception of the good? She is interested in defending human dignity, but what is the locus of that dignity? Who is the subject that she is defending? Why was Eichmann wrong to do what he did? What is evil if not the affront to human dignity? What is human dignity? If the ‘criterion of right and wrong’ depends upon ‘what I decide with regard to myself’, what of those who are able to accommodate their wrongdoing?⁶⁰

Can one work backwards from the horrors of the Shoah and say “not that again”, identifying in experience a negative ground of the ethical (an Adorno-ian position)?⁶¹ Or does one work forwards towards a ground for ethics from the Face, that which was affronted in the Shoah (Levinas)? Arendt does recognize the phenomenal character of human suffering – in the book on Eichmann she writes of the S.S.: ‘[...] the problem was how to overcome not so much their conscience as the animal pity by which all normal men are affected in the presence of physical suffering.’⁶² And in the absence of belonging to a community, ‘This mere existence, that is, all that which is mysteriously given us by birth and which includes the shape of our bodies and the talents of our minds, can be adequately dealt with only by the unpredictable hazards of friendship and sympathy, or by the great and incalculable grace of love [...]’.⁶³ Thus Arendt does recognize the moral character of the human – what Seneca called the

⁵⁸ ‘Some Questions of Moral Philosophy’, in *Responsibility and Judgment*, p. 138.

⁵⁹ *Lectures on Kant’s Political Philosophy*, p. 4.

⁶⁰ *Responsibility and Judgment*, p. 97. On this point one might reflect upon the harrowing documentary ‘The Act of Killing’, where those who were responsible for much of the slaughter of ethnic Chinese ‘communists’ in Indonesia in the 1960s are questioned about the killings – and, despite some troubled sleep in some cases, have clearly been able to live with the events for decades. It is only upon being pressed to reflect upon the events that causes them, in some cases, to break down. Thus Arendt may be correct about the value of reflection, but what kind of moral bulwark is that against people who choose not to reflect?

⁶¹ The kind of position Arendt recognises when commenting: ‘But the real evil is what causes us speechless horror, when all we can say is: This should never have happened.’ From ‘Some Questions of Moral Philosophy’, in *Responsibility and Judgment*, p. 75. The similar injunction issuing from Adorno and Levinas – though posed differently by each of them – is further explored in Chapter Two.

⁶² Arendt, H., *Eichmann in Jerusalem: A Report on the Banality of Evil*, London: Penguin Books, 2006, p. 106.

⁶³ *The Origins of Totalitarianism*, p. 301.

‘naked human being’⁶⁴, and its vulnerability - Peg Birmingham refers to this as Arendt’s recognition of ‘givenness’. It is the right of what is given, in terms of human existence, to *appear* within the space of the political, to speak amongst others and be recognized, that can secure human dignity⁶⁵, what has been described as ‘[...] an anthropology of a politico-linguistic form of life as opposed to an anthropology of quasi-natural human “needs” or “interests”’.⁶⁶ This argument – the fecklessness of moral claims without political guarantees to secure them - undoubtedly carries much force, however to understand why there should be a right to have rights – why such a notion should be defended at all – it is necessary to articulate the locus of the dignified subject, without which rights would not even be worth considering (as will be developed below and in the next chapter). That is to say, that the Rights of Man – and not merely the Citizen – remain a necessary horizon of understanding a political ethos of responsibility for stateless persons.

Arendt is caught between two conceptions of subjectivity: on the one hand, her Socratic conception of the thinking subject in dialogue with itself; on the other, the disclosure of the subject in the *inter homines esse*, the space of appearance between human beings living in a condition of plurality: ‘...the Romans, perhaps the most political people we have known, used the words “to live” and “to be among men” (inter homines esse) ... as synonyms.’⁶⁷ (To the extent that the refugee is kept from the space of appearance – by exclusion from the *inter homines esse*, from the rights that follow from living in plurality or ‘consort’ with other peoples⁶⁸ - then their very humanity qua human ‘condition’ is denied.) An Aristotelean conception of living in the condition of plurality, in *philia*, may even relegate justice to a secondary place, as Eleni Leontsini observes:

The city is a partnership for the sake of the good and—in the same sense that justice is the good in the sphere of politics— friendship is also a good and holds the state together. Lawgivers, according to this argument, seem to care more for friendship than for justice, since friendship generates concord (homonoia)—i.e., unanimity of the citizens—which is similar to friendship. In that way, friendship can hold the state together—in the same sense that justice does—and can also expel faction. It is in this sense that, when people are friends, they have no need of justice, while when they are just, they need friendship as well, and the highest form of justice seems to be a matter of friendship.⁶⁹

Arendt is torn between the individual subject and the relational subject. But in neither conception can she account for the *locus* of the *dignified* subject, without reverting to either ratiocination, or a political compact between citizens or political entities. She seeks a new guarantee of human dignity,

⁶⁴ Seneca, *De Beneficiis*. III.18.2, in (Braysore, J. ed.) *Moral Essays Volume Three*, Oxford: Loeb Classical Library, 1935.

⁶⁵ Birmingham, P., ‘the An-Archic Event of Natality and the “Right to have Rights”’, *Social Research*, Vol. 74, No.3, Hannah Arendt’s Centenary: Political and Philosophical Perspectives, Part I (FALL 2007), pp. 769-770.

⁶⁶ Menke, C., Kaiser, B., and Thiele, K., ‘The “Aporias of Human Rights” and the “One Human Right”’: Regarding the Coherence of Hannah Arendt’s Argument’, *Social Research*, Vol. 74, No.3, Hannah Arendt’s Centenary: Political and Philosophical Perspectives, Part I (FALL 2007), p. 756.

⁶⁷ *The Human Condition*, p. 193.

⁶⁸ *The Jewish Writings*, p 297.

⁶⁹ Leontsini, E., ‘Justice and Moderation in the State: Aristotle and Beyond’, in Fløistad, G. (ed.), *Philosophy of Justice*, Oslo: Springer, 2015, p. 37. Leontsini also discusses the relevance of Aristotle for contemporary political theory, and draws a distinction between Rawls, who is neutral on a determinate conception of the political good, and Aristotle, who does have such a conception, that ‘the polis is natural because it is essential for the good life’ (p. 42).

but there is no transcendent aspect to which she can appeal – indeed, such notions of transcendence are what she avoids (hence her preference for Socrates over Plato, for any guiding Idea or ‘banister’).

But Arendt, herself sometimes counted as a phenomenologist does not acknowledge or recognize the phenomenal aspect of that which evil affronts – the denial of *alterity* - which is derived from a concept of transcendence (or the Infinite) – what Levinas names as ‘Face’. That is, there is another pathway to confronting evil and guaranteeing the dignity of others, which is non-rational in the Kantian sense, but rather phenomenal. As will be seen below, it is precisely the reduction of the other person to knowledge and thought – to signification – that Levinas will call into question as the horizon of ethical understanding. For Levinas, the other disturbs the self-possession the subject prior to that disturbance entering into signification – this is precisely a mode of *transcendence*, the interruption of the subject by the Infinite made manifest in the Face of the other person.⁷⁰ Thought, which does not finally resolve ethical problems, as Arendt rightly noted, nevertheless might make appeal to something beyond itself – *pace* Arendt, perhaps there *is* a moral banister, an urgently necessary one, to be found in Levinasian phenomenology. (As an aporetic thinker – as Gündoğdu rightly portrays her – Arendt is nevertheless close to Levinas and more especially Derrida in other ways, as will be explored in Chapter Six).

In that critically important passage in the preface to *Origins*, she writes of the need not only for a ‘new guarantee’ but for a ‘new law on earth, whose validity this time must comprehend the whole of humanity while its power must remain strictly limited, rooted in and controlled by newly defined territorial entities.’⁷¹

The Aristotlean distinction between *physis* and *nomos* is pertinent here:

There are two sorts of political justice, one natural and the other legal. The natural is that which has the same validity everywhere and does not depend upon acceptance; the legal is that which in the first place can take one form or another indifferently, but which, once laid down, is decisive [...].⁷²

A law whose validity applies everywhere, but which is rooted in territorial entities, would seem to imply the fusion of *nomos* and *physis*, of legal justice and universal justice. Thus Arendt is aware of the need for a transcendent principle of justice that will orient practical political justice, but cannot account for it – she does not sufficiently engage *physis*. (Levinas, by contrast, gives on to a mode of access to *physis* – what he refers to as the Infinite, or transcendence – but has less to say at the level of *nomos*, of practical politics). Arendt does acknowledge a kind of humanism, but does not explain it. Michael Ignatieff reproaches her on this point, as for him any principle to support rights can only be theological, not human, and thus requires going beyond humanism and asking not why we have rights, but how such rights should operate.⁷³ (That the only possible justification beyond natural rights

⁷⁰ It might be argued that Levinas takes the opposite view to Arendt – preferring Plato to Socrates, if one is to maintain them as separate, and counter to each other, in her sense. For Levinas does speak of his work in terms of it being a form of metaphysics, and explicitly refers to his philosophy as a version of the ‘Good beyond Being’ in *Totality and Infinity*, p. 293: ‘If the notions of totality and being are notions that cover one another, the notion of the *transcendent* [emphasis added] places us beyond categories of being. We thus encounter, in our way, the Platonic Idea of the Good beyond Being.’

⁷¹ *The Origins of Totalitarianism*, p. ix.

⁷² Aristotle, ‘Book V: Justice’ in *The Nicomachean Ethics*, London: Penguin Books, 2004, p. 130.

⁷³ Discussed in Birmingham, P., *Hannah Arendt & Human Rights: The Predicament of Common Responsibility*, Bloomington & Indianapolis: Indiana University Press, 2006, p. 2. For Michael Ignatieff, see *Human Rights as Politics and Idolatry*, (Gutman, A. edited with an Introduction), Princeton: Princeton University Press, 2001, p. 82.

is theological or spiritual will be contested – *phenomenology* is yet a third way of accounting for human dignity, as will be explored further on in relation to Levinas, who evinces a transcendence without spiritualism, understood as that which exceeds the subject in the Cartesian sense).

Responding to a crisis of the ‘Rights of Man’ requires going beyond the limits of the state; law must take in all of humanity and even be connected to new ‘territorial entities’. This need to go beyond the state (while also recalling states to their responsibilities) is an important element of the argument in relation to an *ethos of responsibility*. In the context of the Nuremberg Trials, Alain Finkielkraut (a student of and vocal advocate for Levinas) summarises the importance of this:

By referring, beyond the diversity of concrete laws, to eternal principles – the laws of humanity applicable to all nations – the judges at Nuremberg were following the classical tradition of the Rights of Man that Montesquieu defined as “the civil code of the Universe, in the sense that every people is a citizen thereof”. Furthermore, they reclaimed for their own use the first article of faith of the Enlightenment, that is, the affirmation of a morality holding “for nations and for individuals, for sovereigns and subjects, for the government official and for the obscure citizen. This universalism had never been able to descend from the heights of theory, it is true, for it had always collided with another founding principle of modern politics – the absolute sovereignty of the state.”⁷⁴

A crisis of human dignity at the time of World War Two requires a response beyond the state in punishing the perpetrators: ‘thus it was only after World War Two, with its unheard-of-roster of monstrosities, that the laws of humanity entered into concrete law’.⁷⁵ Finkielkraut quotes Edgar Faure (French Prosecutor at Nuremberg) on the responsibility of those who act on behalf of the state:

That man [who does the work of the state] will have to learn to reflect and to “imagine” the possible consequences of the acts he commits in the course of his professional work. He must conceive of moral values and *a justice superior to the state authority* to which he is subject [emphasis added] No doubt enlightened people are already familiar with the subordination of the temporal to the spiritual, but for so many others, it is important that justice, not just abstract justice, but practical justice – courts, sentences, punishments – be elevated, for once, above the power of the state [...].⁷⁶

To be sure, in Arendt’s reflections upon judgment she places a great importance of a capacity to *imagine* ‘[...] in which one judges objects that are no longer present, that are removed from immediate sense perception and therefore no longer affect one directly, and yet, though the object is removed from one’s outward senses, it now becomes an object for one’s inner senses.’⁷⁷ *Moral imagination*, in the context of a politics of asylum, would, in addition to an understanding or experience of the Levinasian Face, be a vital element in an ethos of responsibility – to imagine, for example, boats of vulnerable people far out on the ocean, as yet unseen but in need of assistance.

⁷⁴ Finkielkraut, A., *Remembering in Vain: The Klaus Barbie Trial and Crimes Against Humanity*, New York: Columbia University Press, 1992, p.5.

⁷⁵ *Remembering In Vain*, pp. 6-7.

⁷⁶ *Remembering In Vain*, pp. 7-8. This reflects Arendt’s own position with regard to Eichmann; again, it is not that Arendt is incorrect, but that she does not give adequate explanation of what justice or rights mean as they pertain to human dignity, other than an explanation of the value of human plurality.

⁷⁷ ‘Twelfth Session’, *Lectures on Kant’s Political Philosophy*, p. 12.

The call for a justice that exceeds the law – that is, the authority of the state – is a theme which will be taken up in more detail in the discussion of Derrida in Chapter Three. But Arendt recognized a paradox here: there is no guarantee against the possibility ‘that humanity itself might “quite democratically” decide to liquidate a people’;⁷⁸ self-defence seemed to come only with national rights, as in the case of Israel: ‘[...] for the first time, they did not need to appeal to others for protection and justice, or fall back upon the compromised phraseology of the rights of man – rights which, as no one knew better than they, were claimed only by people who were too weak to defend their “rights of Englishmen” and to enforce their own laws.’⁷⁹ The problem with Arendt’s argument here is that it means justice can only be achieved once people are members of a state, and provided that the state behaves justly. But there will probably always be people who fall outside of state limits, and who will not always be able to constitute themselves as a state. Similarly, the development of a comity of nations does not guarantee justice, except if that comity behaves justly! When Arendt acknowledges that a state might very democratically decide to liquidate a people, she identifies the lacuna at the heart of her own work – the weakness, at a certain point, of depending upon political action/activity/promises, without any extra-political moral ‘banister’; hence why the Right to Have Rights, while vital, cannot be confined to the political itself; the political must be subject to extra-political criteria for judgment that do not depend upon agreement, even democratic agreement, for their validation.

This impasse highlights the problem at issue. Whether it be the state or at a level beyond the state – a comity between states, for example - the problem is how to guarantee human dignity, if states might ‘quite democratically’ decide on undignified ends (and in the absence of international sanction for a failure to provide refuge). International and state law are only effective if they aim at such a guarantee. How then to articulate the guarantee? What is it that law should enshrine and protect? It is therefore of fundamental importance that a kind of transcendence, which is to say, an understanding of the ethical, exist outside of that which is provided for by political promise-making.

It is to that problem that the notion of an *ethos* of responsibility is addressed. Such an *ethos* would determine the *telos* of the state – as coterminous with justice, and responsibility for others, rather than simple self-interest (realism) or the contractual formalism of fairness (liberalism). It is developed in two parts below – firstly, by reference to Levinasian phenomenology as a response to some of the problems with Arendt’s account as discussed above; secondly, by a discussion of the role of moderation in political calculations around refuge – that is, determining the limits and measure of refuge.

In his book *Hatred of Democracy*, Jacques Rancière discusses the ‘much-commented-on duality of man and citizen...[and that it is generally held] if two principles are required for politics instead of only one, it must be because of some deceit or vice.’ Burke and Arendt held that the Rights of Man are feckless without civic instantiation, while the Rights of the Citizen ‘...are simply the rights of those who have rights, and hence a pure tautology.’⁸⁰ For Rancière, it is necessary that these names of the political be maintained in their heterogeneity, because ‘Political subjects exist in the interval between different names of subjects’.⁸¹ For Rancière, ultimately this is a political problem – here he is close to Arendt, in seeing a limitation in providing a normative grounding for human dignity, and seeking to understand rights strictly within the domain of the political: Rights ‘...were won through democratic action and are only ever guaranteed through such action. The ‘rights of man and of the

⁷⁸ Hannah Arendt: *For Love of the World*, p. 257.

⁷⁹ *Eichmann in Jerusalem*, p. 271.

⁸⁰ Rancière, J., *Hatred of Democracy*, London and New York: Verso, 2014, p. 58.

⁸¹ *Hatred of Democracy*, p. 59.

citizen' are the rights of those who make them a reality.⁸² In a critique of Lyotard (but in terms highly reminiscent of a critique of Levinas), he dismisses the appeal to an ontological grounding of the suffering subject, preferring a 'heterogeneity of political dissensus' to 'a more radical heterogeneity' of the appeal that issues from Otherness.⁸³ Thus he suggests: 'I think that we had rather leave the ontological destiny of the human animal aside if we want to understand who is the subject of the Rights of Man and to rethink politics today.'⁸⁴ This quote is significant because in the discussion of Levinas to come, precisely the opposite is asserted. The 'ontological destiny of the human animal' – that is, the ontological status of the human being – is an essential concern of Levinasian ethics, and can provide the possibility of a response to the impasses in Arendt's thinking of the ethical. Contrary to Rancière's view, a Levinasian politics would hold that the rights of man are not simply the objects of claim and the fruits of action, but a right that can be identified with the Face of the other person, which then informs those claims and actions.

Limitations of the 'Right to have Rights'- the Case of Denmark

One of the privileged examples for Arendt of a state's treatment of a vulnerable group is Denmark's protection of its Jewish population – both citizens and refugees – during the Second World War. In order to further illustrate the limitations of the Right to Have Rights in Arendt's terms, a brief excursus on this example follows.

Arendt lauds the Danish example in *Eichmann in Jerusalem*: 'One is tempted to recommend the story as required reading in political science for all students who wish to learn something about the enormous power potential inherent in non-violent action and in resistance to an opponent possessing vastly superior means of violence.'⁸⁵ Whether this remark is so apposite in this case or as it applies more generally may be doubted, given Hitler's desire to hold up Denmark as an exemplar of the New German Europe, 'Neuropa', and of how client states would be treated, which may have restrained the violence of the German occupying forces.⁸⁶ Yet she is correct in that Denmark – and working with Denmark, Sweden – managed to save almost all of its native Jewish population, as well as a number of stateless Jewish persons who had entered the state. Arendt describes the Danish attitude thus (quoting Leni Yahil): "'for the Danes...the Jewish question was a political and not a humanitarian question'"; Arendt contrasts this with the approach of the Italians, who evinced the 'almost automatic general humanity of an old and civilized people.'⁸⁷

There are some concerns to be raised in this context. Firstly, the vagaries of contrasting a political attitude versus a 'general humanity of an old and civilized people' (what does 'general humanity' mean here – 'animal pity?') rather dilutes the ability to understand which approach is preferable. Is it a matter of 'whatever works'? What kind of a right has been upheld in the case of Italy – 'Man', or the Citizen? Secondly, Denmark (and the other Scandinavian states) maintained an exclusionary policy with regards to refugees before and during the war, thus preventing many thousands of Jewish refugees from Germany and Eastern Europe from being saved: 'From 1937, when persecution of the Jews in Germany was intensified, Denmark, like most of Germany's other

⁸² *Hatred of Democracy*, p. 74.

⁸³ Rancière, J., 'Who is the Subject of the Rights of Man?', in *South Atlantic Quarterly*, 103: 2/3, Spring/Summer 2004, p. 308.

⁸⁴ 'Who is the Subject of the Rights of Man?', p. 307.

⁸⁵ *Eichmann in Jerusalem*, p. 171.

⁸⁶ Bo Lidegaard, *Countrymen*, New York: Alfred E. Knopf, 2013, pp. 20-21.

⁸⁷ *Eichmann in Jerusalem*, p. 179. For more on the specifics of how the Holocaust unfolded in Italy (and why most Italian Jews survived), see Zuccotti, S., *The Italians and the Holocaust: Persecution, Rescue & Survival*, London: Peter Halban Publishers, 1987.

neighbors, tightened its procedures as Jewish refugees were stopped at the border'.⁸⁸ When the Evian conference was convened in 1938 to address the Jewish refugee issue, 'All agreed that something urgently had to be done – and that preferably this something should be done by anybody but themselves', including Denmark, whose representative assured the public 'that he had not left room for one single Jewish refugee to cross the Danish border.'⁸⁹ As Bo Lidegaard observes:

*Still, the problem was conceived as one of numbers. There were more than a million Jews in Germany and Austria. How many of these unfortunates could and should Denmark receive? The apathy toward the disaster only grew with the numbers, and Denmark, like other countries, turned its back on the problem and reinforced immigration controls at the border.*⁹⁰ [emphasis added]

A pattern may be discerned in the gap between people who are saved qua members of a polity, and people who are not saved because they are not members; as Arendt herself observes, 'As in practically all other countries, the deportations from Holland started with stateless Jews, who in this instance consisted almost entirely of refugees from Germany, whom the prewar Dutch government had officially declared to be "undesirable"'.⁹¹ This was also the case in France, where stateless Jews fared far worse than Jewish-French nationals.⁹² Granting them membership under the rubric of the 'Right to Have Rights' might ameliorate this; however, political realities indicate that most of the time, states are unwilling to take on this responsibility. While Denmark does deserve praise for safeguarding its citizens, perhaps the example of Sweden is even more instructive here – in the willingness to take responsibility for citizens not their own, and from which they did not benefit, and indeed deliberately bore the cost and cancelled debts that Denmark owed them for their assistance, after the war – an exemplary, an-economic sense of responsibility.⁹³ Yet acceptance of such responsibility is rare. The Right to have Rights is arbitrary if states do not take it up – which mostly they don't. This was true in the Thirties (Evian) as it remains true in the present, when in 2016 two summits on refugees in New York failed to agree on meaningful figures for resettlement of stateless persons.⁹⁴ Despite the recognition in the Universal Declaration of Human Rights of a right to asylum, The Right to have Rights as Arendt conceives of it has not arrived.

Thus, the Right to Have Rights require *moral force*, which might be backed by a new international convention guaranteeing a right to asylum (as a right to entry), but which does not depend upon such a law to be acted upon. An explanation of responsibility is required, one that establishes clear *criterion for judgement* of political behaviour – that is, an *ethos of responsibility*. The first component of that ethos is the articulation of human dignity, what it means and why one is responsible for it, which is perhaps what Arendt means (but does not explain) as 'general humanity'. And in a time of crisis, when *large numbers* of people are in urgent need of protection, it is thus necessary, in ethico-political terms, to invoke a protective politics of disproportion, of breaking the bounds of measure, in order to safeguard human dignity – the second component of the ethos. That is to say, that the Right to Have Rights needs to be supplemented by a non-law, a principle, of gracious welcome. The political promises, laws and agreements that might follow from a Right to Have Rights,

⁸⁸ *Countrymen*, p. 12.

⁸⁹ *Countrymen*, p. 14.

⁹⁰ *Countrymen*, p. 14.

⁹¹ *Eichmann in Jerusalem*, p. 167.

⁹² *Eichmann in Jerusalem*, pp. 164-165.

⁹³ *Countrymen*, p. 344: 'Though Denmark offered to cover these costs after her liberation, the Swedish government in 1945 decided not to reclaim the 50 million kroner spent on refugees from Denmark.' It should however be noted that Sweden, like Denmark, had practiced exclusionary policies prior to this.

⁹⁴ See <https://www.amnesty.org/en/press-releases/2016/09/refugee-crisis-leaders-summit-fails-to-show-leadership/>, retrieved 22/2/2017.

need grounding in an ethos of responsibility that will orient them, and subject them to judgment to the extent that they do not comport with the guarantee of human dignity. It requires a reorientation of the political itself to be understood as primarily concerned with ethical questions, that then enter into processes of justice – determinations of ethical problems that must result in decisions, but with such decisions framed by an understanding that self-identity, whether of the subject or the state, is always already responsibility.

Facing the Others

Thus far a political problem - the plight of the stateless, and the need to guarantee their human dignity – has been identified. How Arendt describes this problem, and her own suggestions at a solution (and the way in which her own ideas of ethics are both valuable and problematic) have been described. In this section, a preliminary outline will be given as to how the work of Emmanuel Levinas can provide the kind of guarantee that Arendt seeks, but is perhaps unable to substantiate. The detail of the Levinasian response will unfold particularly in Chapter Two and in subsequent chapters, but for now certain themes can be enunciated in the context of Arendt's call.

Arendt's political concern, as argued in the previous section, lies in her scorn for the Rights of Man as a guarantee of human dignity, and the need for any such guarantee to be 'rooted in and controlled by newly defined territorial entities.'⁹⁵ For Arendt, rights are only meaningful if they are realizable through a political principle that is preserved in a political compact. Her understanding of human life is to a great extent mediated by a thinking of life lived amongst others in the polis – the *inter homines esse*⁹⁶ which forms the basis of much of her thought. In contradistinction, Levinas works from a phenomenology of human existence that is pre-political.

The key difference that can be identified between Levinas and Arendt is that Levinas saw a necessary grounding for the guarantee of human dignity, which can then be thought in relation to the state – and uses it to adjudicate the just nature of the state's comportment towards the stateless. Arendt's skepticism towards the Rights of Man is partly related to their status as 'natural' rights.⁹⁷ But this is not how Levinas understands these rights – in his thought, the Rights of Man shift from Eighteenth Century natural rights to what he calls the 'phenomenology of the rights of man'.⁹⁸ As already noted, both Levinas and Arendt are to some degree phenomenologists. Arendt is a faithful Heideggerian in her ontology in that for her, as for Heidegger, the relation to the other is not primarily an ethical one. Ethics emerges for Arendt as a consequence of mutual promise-making. Consequently, if a different ontological understanding can be suggested as the ground of the political, then a different understanding of the *ethico-political* can be articulated. That is to say, that ethics in a Levinasian register does not supervene afterwards, as a supplement or a result of the *zoon politikon*, but is an always-already present condition of relationality. This would entail a reinterpretation of the Aristotlean *zoon politikon*: if subjectivity amongst men is Levinasian subjectivity, then it is lived as a mode of responsibility, and this structure of existence is not bounded by civic agreement. Ethical

⁹⁵ *The Origins of Totalitarianism*, p. ix.

⁹⁶ Arendt, H., *The Human Condition*, Chicago: The University of Chicago Press, 1998, p. 51.

⁹⁷ *The Origins of Totalitarianism*, pp. 298-301.

⁹⁸ Levinas, E., 'The Rights of Man and the Rights of the Other', *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 125.

transcendence – the encounter with the other person - on Levinas’s account, escapes the order of being where intellection-as-unveiling⁹⁹ is not adequate to the experience, as Raoul Moati observes: ‘To welcome the Other in its excess is to no longer measure it’.¹⁰⁰

For Levinas, the essence of being is self-interest: ‘*Esse is interesse*; essence is interest.’¹⁰¹ The Arendtian *inter homines esse*, while being an understanding of relationality between subjects, lacks an understanding of Levinasian *des-inter-essement* (disinterest, generosity and openness towards others), a mode of being-in-common that has delimited self-interest in the name of responsibility for other persons.¹⁰² The *inter homines esse* corresponds to the condition of plurality, of human beings living and acting with one another (and is thus to some extent already a turning-away from pure self-interest)¹⁰³; but acting in consort with others could just as well be self-interested as disinterested, and in the reference to the classical Greek city-state would seem to refer to constituted polities, and not to a sense of being amongst others where the other is not yet a member of the city. The ‘right to have rights’ pertains to the right of all human beings to attain such membership – but rather begs the question, of why this should be the case? What is it that the city or state is recognizing in granting the stateless person rights of membership? From whence does this sense of responsibility arise?

One of the most important ideas in the work of Levinas (which will be more fully explored in Chapter Two) is that of the ‘Face’. The Face is a pre-phenomenological manifestation of the other person that then enters into phenomenological understanding – an initial shock of encounter, followed by the ability of the subject to realise that the other person suffers or can suffer, is exposed and vulnerable. *Pace* Arendt, There *is* something fundamental in human dignity, that is neither personhood in her sense nor a legal construction, but an ontological being who can suffer; it is the recognition of the Face, in the Levinasian sense, that grounds the Rights of Man – the right of human beings, whether citizens or not – to the recognition of their dignity, which he summarises in a short sentence that is the key difference between these thinkers: ‘In the human face – a right is there.’¹⁰⁴ *The locus of human dignity is the Face*. Contrary to Arendt’s remark cited above, that nothing of ‘human origin’ ‘commands’ ethics, it is precisely in the Face that there is issued the injunction, which Levinas often gives in Biblical terms: ‘thou shalt not kill’, and directly contradicting Arendt’s claim, issues as a commandment (not from God, but from the other person): ‘The first word of the face is

⁹⁹ This is meant both in the sense of Heidegger’s crucial ontological notion of the unconcealedness of Being (the ancient Greek’s *aletheia* translated by Heidegger as *unverborgenheit* = unconcealedness), which is not adequate to describe the experience of ethical transcendence which (for Levinas) precedes ontology; and also in relation to Kant, for whom ethics has to do with rational judgment; for Levinas, there is a sense of the good that is prior to its coming-to-awareness (intellection) in the rational mind, but which is then mediated by the mind.

¹⁰⁰ Moati, R., *Levinas and the Night of Being: a Guide to Totality and Infinity*, New York: Fordham University Press, 2017, p. 16. See also p. 14 where he argues that events of being are not limited to the light of unveiling but are ‘nocturnal’ in nature. Moati’s book is a fascinating challenge to the status quo in Levinas studies, in that he rehabilitates a reading of *Totality and Infinity* against Derrida’s famous reading in ‘Violence and Metaphysics’ that Levinas is trapped in ontological language (thus presumably spurring Levinas to his restatement of his philosophy in *Otherwise Than Being*); for Moati, we need to take seriously the understanding of the ontological in T&I (as an experience of the ‘night’ of being).

¹⁰¹ Levinas, E., *Otherwise Than Being or Beyond Essence*, Pittsburgh: Duquesne University Press, 2008, p. 4.

¹⁰² Levinas, E. (ed. Robbins, J.) *Is It Righteous To Be? Interviews with Emmanuel Levinas*, Stanford: Stanford University Press, 2001, p. 294, footnote 2.

¹⁰³ I thank my supervisor Michael Janover for an important clarification on this point.

¹⁰⁴ Levinas, E., ‘The Face of a Stranger’, in the *UNESCO Courier*, July-August 1992, p. 66.

the “Thou shalt not kill”. It is an order. There is a *commandment* in the appearance of the face, as if a master spoke to me.¹⁰⁵ [emphasis added]

This would seem to be a stronger claim than the various intimations Arendt makes as to what such an ethics would look like – personhood as persona, friendship, the process of Socratic reasoning and the need to live with oneself, the faculty of judgment as a process of ratiocination not ultimately fixed in any conception of the good, or the agreements reached amongst plural citizens in a political compact. None of these ideas seem sufficient to ground the guarantee that she seeks; and it is her conviction that there is a lack of any natural ground for the Rights of Man, that justifies such an approach. But if it can be shown – as is argued here apropos of Levinas – that there is such a ground, to be found in his phenomenological ethics – then there is a lacuna in Arendt’s thought that is thereby addressed. To leave ethical considerations of the other at the level of thought and knowledge is to reduce the other to a schema – but for Levinas the other is rather an interruption of schema:

An order higher than knowing. An order that, resounding like a call, touches the human in his individuality still congealed by the generality of the genus, but already awake to the uniqueness of the I, a uniqueness indiscernible by logic, a responsibility for the other person, an undeniable election, bearing love in which the other, the loved one, is to the I unique in the world.¹⁰⁶

Also important to note here (and to be developed in the following chapter) is the nature of Levinas’s view of politics. For the purpose of this chapter, this will be elaborated in terms of what for Levinas is ultimately at stake in politics, in light of the critique proposed of Arendt above, and that is, to borrow his phrase, ‘the very humanity of man’. This phrase and this theme emerge in a prescient piece by Levinas in 1934: ‘Reflections on the Philosophy of Hitlerism’. It is prescient because it is a very early identification of what Hitlerism-Nazism portends – not simply an odious politics, but something that strikes very deeply at human existence.¹⁰⁷ The ‘possibility of *elemental Evil*’ that he names at the heart of National Socialism is a possibility ‘inscribed within the ontology of a being concerned with being’. This is the essence of his critique of Heidegger, the leitmotif of his entire career – that a thinking of being concerned with its being, the *conatus essendi* (the Spinozan principle of beings persevering in their being) runs the risk of self-interested, even fascistic impulses (and thus puts *Being and Time* into scandalous proximity with *Mein Kampf*).¹⁰⁸

There is a need to think about the human being in its phenomenality, where the ‘humanity of man’ is thought beyond the domination of man. Levinas identifies this focus on beings as a lacuna in the Christian-liberal and philosophical history of the West:

What does it mean to traditional interpretations to have a body? It means tolerating it as an object of the external world. It weighs on Socrates like the chains that weigh him down in the prison at Athens; it encases him like the very tomb that awaits him.

¹⁰⁵ Levinas, E., (trans. Cohen, R.) *Ethics and Infinity: Conversations with Phillippe Nemo*, Pittsburgh: Duquesne University Press, 1985, p. 89.

¹⁰⁶ *Outside the Subject*, p. 3.

¹⁰⁷ Giorgio Agamben comments on the foresight of this essay in *Homo Sacer*, pp. 150-153.

¹⁰⁸ Levinas: ‘It [Heidegger’s Nazi involvement] cast a shadow over my firm confidence that an unbridgeable distance forever separate the delirious and criminal hatred voiced by Evil on the pages of *Mein Kampf* from the intellectual vigor and extreme analytical virtuosity displayed in *Sein und Zeit*, which had opened the field to a new type of philosophical inquiry.’ From ‘As If Consenting to Horror’, in *Critical Inquiry*, Volume 15, No., 2, Winter 1989, p. 485.

The body is an obstacle. It breaks the free flight of the spirit and drags it back down to earthly conditions, and yet, like an obstacle, it is to be overcome.¹⁰⁹

The Socrates in which Arendt puts so much stock in describing her view of judgement is someone for whom the physical body is an obstacle (Nietzsche also wrote of Socrates's world-weariness in this regard)¹¹⁰. And while Levinas wishes to 'escape' from Heidegger's preoccupation with ontology as it relates to the human being (*Dasein*), he does not want to negate this thinking either – the physical, ontological status of the human, understood via the thinking that Heidegger opens, remains indispensable for Levinas.¹¹¹

But in the Western philosophical tradition, and more specifically in liberal, Enlightenment thought, Materialism has exited the stage:

The French writers of the eighteenth century, who were the precursors of democratic ideology and the Declaration of the Rights of Man, in spite of their materialism, confessed to being aware of a reason that exorcises physical, psychological, and social matter. The light of reason was enough to chase away the shadows of irrationality. What remains of materialism when matter has been completely pervaded by reason?¹¹²

The irony in this passage is evident; the shadows of irrationality were not chased away, either in the Eighteenth Century or the Twentieth. The grounding of the Rights of Man in principles of reason was inadequate; in this way Levinas is very close to Adorno, another thinker who was preoccupied with Nazism, in terms of the need for 'the mind to reflect on its own failure'.¹¹³ This is another important difference between Arendt and Levinas: for the latter, there is a pre-rational moment of the ethical, where responsibility is manifest prior to intellection, which is certainly not the case for Arendt. Politically, liberalism is for Levinas too disembodied, and while Marxism introduces a thinking of materialism into the history of Western philosophy, it nevertheless remains, in Simon Critchley's words, 'in relation to a certain telos, namely, the goal of proletarian revolution...Marxism doesn't fully break with liberalism. The break that goes beyond Marxism occurs with the rethinking of the body'.¹¹⁴

There is an uncomfortable thought here: Levinas identifies the need to include the body within philosophy in order to account for the 'humanity of man', but this can hardly be done acceptably via Hitlerism, nor via an uncritical view of Heidegger. Levinas is positing that the problem to which the inhumanity of Hitlerism tends – the domination of human beings in their facticity - is beyond the bounds of rational principles or liberalism – it requires an 'alternative elemental philosophy'.¹¹⁵

¹⁰⁹ 'Reflections on the Philosophy of Hitlerism', p. 67.

¹¹⁰ Nietzsche, F., 'The Problem of Socrates', in *Twilight of the Idols/The Anti-Christ*, London: Penguin Books, 1990, pp. 39-44.

¹¹¹ 'If at the beginning our reflections are in large measure inspired by the philosophy of Martin Heidegger, where we find the concept of ontology and of the relationship which man sustains with Being, they are also governed by a profound need to leave the climate of that philosophy, and by the conviction that we cannot leave it for a philosophy that would be pre-Heideggerian.' Levinas, E., *Existence and Existents*, Pittsburgh: Duquesne University Press, 2001, p. 4.

¹¹² Levinas, E., 'Reflections on the Philosophy of Hitlerism', *Critical Inquiry* Vol. 17 (No. 1 Autumn 1990), Chicago: University of Chicago Press, 1990, p. 66.

¹¹³ Adorno, T. (ed. Tiedemann, R.) *Can One Live After Auschwitz?: A Philosophical Reader*, Stanford: Stanford University Press, 2003, p. xv.

¹¹⁴ *The Problem With Levinas*, pp. 36-37.

¹¹⁵ Critchley's phrase. *The Problem With Levinas*, p. 44.

Thinking the subject needs to be reoriented, in order to avoid a possible trap of self-concern and negation of the other: 'Does the subject arrive at the human condition prior to assuming responsibility for the other man?' To ground the Rights of Man, the 'Right to have Rights' and the 'new guarantee' for 'human dignity', physical, material, phenomenal suffering needs to be taken into account, where the other is no longer simply a datum of ratiocinations or political calculations, but interrupts both reason and politics with the pressing demand of their suffering. To the extent that the Rights of Man were bound to the Rights of the Citizen, a problem arose when a great portion of humanity was rendered stateless. But rather than a political principle, an extra-political principle is articulated by Levinas, one which watches over the political, exercising judgement as to the humanity of political judgment. (Which is to say, that just as Heidegger transmuted his individual *existenz* philosophy into a philosophy of the German *volk* in relation to Nazism, Levinas can conceive of his sense of responsibility as moving beyond the interpersonal to the level of the state – the progression is the same in each case, though the moral implication is entirely opposed.) This can unfold within a liberal order, but that order is of itself insufficient: a moral deficit at the heart of democratic life that, as Critchley puts it, '[...] is intimately bound up with the felt inadequacy of official secular conceptions of morality.'¹¹⁶ Levinas thus seeks something beyond the liberal state, 'a state extending beyond the state':

Here is a problem of a different order, for which institutions and a politics – the entire panoply of a state – are necessary. But a liberal state: always concerned about its delay in meeting the requirement of the face of the other. A liberal state – a constitutive category of the state – and not a contingent, empirical possibility; a state that recognizes, beyond its institutions, the legitimacy – though it be a trans-political one – of the search for and defense of the rights of man. A state extending beyond the state. Beyond justice, an imperious reminder of all that must be added to its necessary harshness, and that springs from the human uniqueness in each of the citizens gathered in the nation, from resources that cannot be deduced, nor reduced to the generalities of a legislation. Resources of charity that have not disappeared beneath the political structure of institutions: a religious breath or a prophetic spirit in man.¹¹⁷

The meaning of the political as thought by Levinas is well summarized by John Drabinski:

Ethics has a twofold relation to politics: ethics is both the phenomenological ground of politics and, as the ground on which politics is built, is always capable of calling it into question. Ethics holds an interruptive power in relation to politics, even as it grounds. This interruptive effect derives from its position in the order of priority...Politics left to itself is tyrannical. Still, if we situate ethics at the basis of the just state, then a relation is forged between ethics and politics that opens up the possibility of an ethical politics.¹¹⁸

In the next chapter, this argument, and a more extensive response to the Arendtian position, is elaborated, particularly via a reading of a generally neglected text written by Levinas specifically on

¹¹⁶ Critchley, S., *Infinitely Demanding: Ethics of Commitment, Politics of Resistance*, New York: Verso Books, 2012, p. 8.

¹¹⁷ Levinas, E., *Entre Nous : Thinking-of-the-Other*, New York : Columbia University Press, 1998, p. 203.

¹¹⁸ Drabinski, J., 'The Possibility of an Ethical Politics: from peace to liturgy', in (Katz, C. and Trout, S. eds.) *Emmanuel Levinas: Critical Assessment of Leading Philosophers – Volume Four, Beyond Levinas*, Oxon: Routledge, 2005, p. 194.

this topic: 'The Rights of Man and the Rights of the Other'.¹¹⁹ Before proceeding to Chapter Two, there is another line of argument to be introduced, concerning a theoretico-practical barrier to the guarantee of human dignity and the engendering of an *ethos of responsibility*.

Measure for (un)Measure: A Question of Justice

To posit a political principle of an *ethos* of responsibility for others – that is to say a just, solicitous politics, which recognizes the 'Face' of a great number of persons in distress – would seem to beg a question of numbers. That is to say, what is the capacity of a region, a city, a state or multi-state entity, to provide asylum? Are there any limits to the numbers?

This question of numbers is thus a question of moderation – of what the correct proportion of persons allowable into a political entity such as a city or state might be. Moderation was a 'general moral precept' of the Ancient Greek world – *meden agan*¹²⁰ – nothing too much.¹²¹ As noted in the Introduction, Aristotle in the *Nicomachean Ethics* defines justice as measure, and injustice as excess. The idea of justice as measure recalls the famous image of *Justitia*, Roman Goddess of Justice, with scales of measurement in hand – the weighing of competing interests, facts, arguments and evidence.

In relation to the politics of asylum, measure would entail balancing the interests of an extant political community with the interests of those who come from without – a measurement of capacity, limits, numbers – and perhaps also the very willingness, the political will or desire, to provide asylum, which will always be held in tension with the apparent primary responsibility of governments to their own constituents. But even if the members of a political community have that willingness and follow an *ethos* of responsibility, mediated by the Levinasian impulse discussed above, the question of measure will remain.

How then to negotiate this question? But before it is even negotiated, some questions about moderation might be posed. What is it, really? Is moderation – in the context of political asylum – fairly applied, that is, based on a proper assessment of limits and numbers? Or is the appeal to moderation a covert form of conservatism? One can ask what the measure of measure truly is. This is the question posed by the notion of the '*calculus of moderation*' – a syntagm which underscores the calculative, numeric nature of appeals to limits as bound up with what is called moderation – appeals which nevertheless often remain to be justified, and risk appearing to be no more than mere assertion.

Aristotle was not ignorant of the problematic nature of referring to goodness with reference to numbers; in the *Eudemian Ethics*, he criticizes unnamed opponents for doing just this:

They ought in fact to demonstrate (the existence of) the good itself in the opposite way to that in which they do now. As things are, beginning with objects not agreed to possess the good, they demonstrate what are agreed to be goods; starting with numbers, (they prove) that justice is a good, and health, on the grounds that they are forms of order and numbers, good belonging to 20 numbers and monads because the one is the good-itself. They ought to start with agreed (goods), such as health,

¹¹⁹ *Outside the Subject*, pp. 116-125.

¹²⁰ 'Some Questions of Moral Philosophy', in *Responsibility and Judgment*, pp. 76-77.

¹²¹ See also for example Plato, 'Protagoras', in *Protagoras and Meno*, London: Penguin Books, 2005, p. 51.

strength, and temperance, (in order to show) that the fine is present even more in unchanging things.¹²²

As Stephen Menn observes: ‘...Aristotle thinks that the reduction of Forms to numbers and of philosophy to mathematics...means that our explanations in fact have nothing to do with goodness.’¹²³ But despite this awareness, Aristotle’s conception of justice undermines this distinction, in that justice for him means in part, a lack of excess. What is excess? A critical syllogism in response to Aristotle’s thought might run as follows:

- 1) Aristotle posits measure as the definition of justice – that is, the absence of either lack or excess;
- 2) In the context of a politics of asylum, a dominant question is that of *numbers* – of numerical limits to granting refuge (as way apparent in the Denmark example cited above)
- 3) In this context, excess itself is understood by political actors to be bound up with numbers – ‘we cannot go too far, let too many in’, and so on;
- 4) Consequently, to posit excess as that which is to be avoided in politics, is to lend credence to an argument that any granting of refuge be made based upon a consideration of non-excessive numbers – a practice that is generally pursued by states worldwide. In the context of the politics of asylum, the separation between goodness and number that Aristotle wants to maintain, is undone due to the figuration of excess qua number.¹²⁴

But it may be that in times of humanitarian crisis for example, *precisely an excessive goodness is required*. Should measure, limits, moderation, be the ultimate horizon of justice, or the only way to understand justice? To a great extent, what the work of Levinas and Derrida takes aim at is the calculative – pressing back against standard wisdom that there must always be a limit, or that the limit be set at a particular point. In Levinas, the recognition of Infinity, that is, the infinite demand placed upon the subject by its *proximity* to another (*substitution*, existing ‘through the other and for the other’, ‘summoned as irreplaceable’¹²⁵), is the birth of the possibility of a response to that demand – which then has to be negotiated in practical terms, as the moment of the Third – having a second person to respond to already requires weighing and calculation between two parties in front of the subject, both of whom call upon their solicitude.¹²⁶ In Derrida’s work, a thinking of impossibility animates much of his writings – a calling into question of the horizon of the possible, but which still requires calculation. In his essay ‘Force of Law: the Mystical Foundation of Authority’, he writes:

This excess of justice over law and calculation, this overflowing of the unrepresentable over the determinable, cannot and should not [*ne peut pas et ne doit pas*] serve as an alibi for staying out of juridico-political battles, within an institution or a state, between institutions or states. Abandoned to itself, the incalculable and giving [*donatrice*] idea of justice is always very close to the bad, even to the worst for it can

¹²² Aristotle, (trans. Wood, M.), *The Eudemian Ethics Books I-II-VIII*, Oxford: Clarendon Press, 2nd edition, 2005, P. 10, 1218a.

¹²³ Menn, S., ‘Aristotle’s Theology’, in Shields, C. (ed.) *The Oxford Handbook of Aristotle*, Oxford: Oxford University Press, 2012, p. 429.

¹²⁴ Excess may take on other forms – excessively harsh treatment, for example – but is consistently a political theme in relation to *numbers* of arrivals. It would be of interest to track the appearance of the word ‘numbers’ in political discourses about asylum, though such a concordance might exceed all limits.

¹²⁵ *Otherwise Than Being*, p. 114.

¹²⁶ It should be noted that the Third is always already present, according to Levinas, and does not supervene after the originary relationship between two. For a discussion on this point, see Herzog, A., ‘Is Liberalism “All we Need”?: Levinas’s Politics of Surplus’, *Political Theory*, Vol. 30, No., 2, April 2002, 204-227. See also Bernasconi, R., ‘The Third Party: Levinas on the Intersection of the Ethical and the Political’, in the *Journal of the British Society for Phenomenology*, Vol. 30, No. 1, 1999, pp. 76-87.

always be reappropriated by the most perverse calculation. It is always possible, and this is part of the madness of which we were speaking. An absolute assurance against this risk can only saturate or suture the opening of the call to justice, a call that is always wounded. But incalculable justice *commands* calculation.¹²⁷

Thus, both Levinas and Derrida recognize the need for calculation and measure as fundamental to justice – and thus, to be sure, an appeal to reason and judgment - but that this arises out of an experience of the infinite or the impossible, which can never quite be reduced to calculation or moderation, and nor is the latter even necessarily an *a priori* good. Thus their thinking constitutes to some extent an *agon* with Aristotle, a struggle or wrestling-match, a contestation of the meaning of measure and calculation, of the ‘calculus of moderation’ – the excess of justice over law and calculation, which nevertheless requires calculation. The need to call into question measure has also to do with liberal theories of justice, which can tend to a kind of contractualism of fairness – and thus still a calculus – whereas a thinking of justice by Levinasian-Derridian lights would not delimit justice to the calculable – thus providing political theorists a new way of approaching the same questions.¹²⁸

Another pertinent Aristotlean axiom in this context is the distinction he draws in *The Politics* between the household and the *polis* (here Aristotle’s argument affirms the argument of the thesis rather than being its target). For Aristotle these are different entities with different roles:

It is an error to suppose, as some do, that the role of a statesman, a king, of a household-manager and of a master of slaves are the same, on the ground that they differ not in kind but only in point of numbers of persons – that a master of slaves, for example, has to do with a few people, a household-manager with more, and a statesman or king with more still, as if there were no differences between a large household and a small state.¹²⁹

There is a difference between the economics of the household and the state that Aristotle recognizes. But politicians will often appeal to the image of the limits of the household in advocating the limits of the state to provide for outsiders. And even Derrida will have recourse to *oikonomia*, the law of the household, and the negotiation of the limits of hospitality¹³⁰. This would *seem* to be inevitable: as Arendt writes in *The Human Condition*, ‘Materialism in political theory is at least as old as the Platonic-Aristotlean assumption that political communities (*poleis*) – and not only family life or the coexistence of several households (*oikiai*) – owe their existence to material necessity’.¹³¹ But she also recalls the distinction between the political and social worlds, which she sees as having become blurred, because of the importance for her of action: ‘It is decisive that society [as distinct from the political realm but which has blurred into it], on all its levels, excludes the possibility of action’.¹³² This is linked for Arendt

¹²⁷ Derrida, J., ‘Force of Law: The Mystical Foundation of Authority’, in *Acts of Religion*, New York: Routledge, 2002, p. 257.

¹²⁸ A fundamental difference here would be on the topic of reciprocity: a theme key for John Rawls’s ‘Theory of Justice’, as well as in Aristotle’s ethics; but reciprocity is explicitly criticized by Levinas, who did not think that the other’s responsibility for me is my concern.) For Rawls, see Rawls, J. (ed. Kelly, E.) *Justice as Fairness: A Restatement*, Cambridge: Belknap Press, 2003, p. 6. For Levinas, see his interview in Kearney, R., *Dialogues with Contemporary Continental Thinkers: The Phenomenological Heritage*, Manchester: Manchester University Press, 1984, p. 67.

¹²⁹ Aristotle, *The Politics*, London: Penguin Books, 1992, p. 54.

¹³⁰ See the critical remarks on his paper ‘Hospitality’ in the Introduction. One might also note that the German word for a (government) budget is *Haushalt*; the very language of state economy is bound up with the image of the household, reflecting the etymology of ‘economy’ (*oikos* – house, dwelling, *nomos* – law).

¹³¹ Arendt, H., *The Human Condition*, Chicago: The University of Chicago Press, 1998, p. 183.

¹³² *The Human Condition*, p. 42.

to a question of numbers: 'Politically, this means that the larger the population in any given body politic, the more likely it will be the social rather than the political that constitutes the public realm.'¹³³ At the time of Ancient Athens – that is, when the polis was the model of the political – 'The Greeks...were quite aware of the fact that the polis, with its emphasis on action and speech, could survive only if the number of citizens remained restricted.'¹³⁴ This belief persists into a new era of mass societies and states far greater than any polis of antiquity. This is also for Arendt, in a reference to Thucydides which is also Hobbesian, a moral concern: 'Outside the walls of the *polis*, that is, outside the realm of politics in the Greek sense of the word, 'the strong did what they could, and the weak suffered what they must' (Thucydides)'.¹³⁵ Yet such is precisely the position of the stateless, and hence the ethical requirement for a negotiation of the limits of the polis that calls the language of economy into question.

Is it possible to think the politics of asylum beyond economic limits, or at least, to suspend or call into question such limits? To get beyond 'the era of number's despotism',¹³⁶ beyond seeing *homo sapien* as merely *homo economicus*, beyond what Marx called 'the icy waters of egotistical calculation'?¹³⁷ Is even Derrida somewhat misled by the etymology of hospitality into accepting a tension that may not be vital, between host and hostility? What are the true limits of the state to provide refuge? And who can say for sure what they are? Can any claims in this context ever be rigorously determined, or will they always retain the character of mere assertion? And can there be moments when calculation is suspended – a moment of grace, which stops the counting process in order to simply side with bare life in a context of distress for that life?

Indeed, the Right to Have Rights, as Arendt intends it, would seem to fall afoul of an ethics that contends with infinitely demanding situations; it implies a reciprocity, the mutual promise-making between states that everyone might be allowed residence in a state; but the obligation is only recognized to the extent that others also recognize this. This reduction of obligation to the reciprocal is a primary target of Levinas, who always maintained that the obligation of others is not my concern – only my own responsibility is; and what is possible to realise for the individual is also possible for the state – that the obligations of others (other states) is not (necessarily) their concern. (This is discussed at greater length in Chapter Two).

The work of Immanuel Kant informs much of the thinking presently at issue – especially Arendt and Derrida – and some remarks by Kant are highly pertinent in this context. Kant of course was an early advocate of the right to hospitality, in the 'third definitive article' of his paper 'Towards Perpetual Peace: A Philosophical Sketch' – although this was limited to a right to visitation.¹³⁸ Kant recognized that 'the common possession of the surface of the earth' meant that, 'Since it is the surface of a sphere, they cannot scatter themselves on it without limit, but they must rather ultimately tolerate

¹³³ *The Human Condition*, p. 43.

¹³⁴ *The Human Condition*, p. 43.

¹³⁵ Arendt, H., *On Revolution*, London: Penguin Books, 2006, p. 2.

¹³⁶ Badiou, A., *Number and Numbers*, Cambridge: Polity Press, 2008, p. 1.

¹³⁷ Marx, K., and Engels, F., 'The Communist Manifesto', in Simon, L.H. (ed.), *Karl Marx: Selected Writings*, Indianapolis: Hackett Publishing Company Inc, 1994, p. 161. The next line begins: 'It has resolved personal worth into exchange value' – this part of Marxist critique is identical with Levinas's concerns, the reduction of the human to a calculus, which is perhaps why Levinas will so often refer positively to the emancipatory project of communism – the restoration of the human to a sense of dignity beyond exchange value - even as he is troubled by its calamitous results in the Twentieth Century. The exploration of the links between Levinas and Marx on this point would warrant further research.

¹³⁸ Kant, I., *Towards Perpetual Peace and Other Writings on Politics, Peace, and History*, New Haven: Yale University, 2006, p. 82.

one another as neighbors, and originally no one has more of a right to be at a given place on earth than anyone else.¹³⁹ In the previous section Arendt's adherence to Kant was critiqued; however it should be noted that the distance between measure and the recognition of dignity was already identified by Kant. He defines dignity as that which is beyond equivalence:

In the kingdom of ends everything has either a price or a dignity. What has a price can be replaced by something else as its equivalent; what on the other hand is raised above all price and therefore admits of no equivalent, has a dignity.¹⁴⁰

Given the gap between price and dignity, moderation cannot always set the limit: 'To be beneficent where one can is a duty'.¹⁴¹ The imperative of the kingdom of ends – of seeing human beings as the bearer of dignity and treating them as ends in themselves – requires this suspension of command:

[...] imperatives of prudence, strictly speaking, cannot command at all, ie. present actions objectively as practically necessary. They are to be taken as counsels (*consilia*) rather than as commands (*praecepta*) of reason.¹⁴²

This is because, as argued above, the ultimate ground of judgement is uncertain, if judgment is to be understood as pertaining strictly to reason:

...the right of Reason's need, as a subjective ground for presupposing and assuming something which Reason may not presume to know through objective grounds," there it is "capable of orienting itself in thinking solely through Reason's own need, in that immeasurable space of the supersensible, which for us is filled with dark night".¹⁴³

Reason thus discovers its limits in the 'immeasurable space of the supersensible' – what Levinas calls *Infinity*, the transcendent beyond of totalisation – and cannot advance on absolutely 'objective grounds', but rather in a 'dark night', or what Arendt, quoting Solon, refers to as the 'non-appearing measure'.¹⁴⁴ Thought finds itself caught in a tension between politics and morality that is not finally resolvable in rational terms.¹⁴⁵ In the absence of this, how is political judgement on the question of asylum to be exercised? That is where an ethics of hospitality – an *ethos* of responsibility – can play a vital role; philosophy can provide criterion for judgment, without determining precisely the content of those judgments, but rather whether such judgments can be considered just, and comport with human dignity; as in Kant's view, there is a difference between doing a determinable duty, and striving to be dutiful. But despite the appearance of similarity between Kant and Levinas-Derrida in the delimitation of the role of measure, Kantian ethics is very different to that of the later Continentalists, whose work on ethics is explained further in the following two chapters. It is not a matter simply of deontology or rational principles, nor as in the case of Badiou, a set of truth-claims

¹³⁹ *Towards Perpetual Peace*, p. 82.

¹⁴⁰ Kant, I., *Grounding for the Metaphysics of Morals*, Indianapolis: Hackett Publishing Company Inc, 1993, p. 40.

¹⁴¹ *Grounding for the Metaphysics of Morals*, p. 11.

¹⁴² *Grounding for the Metaphysics of Morals*, p. 28.

¹⁴³ Kant, I., *Religion and Rational Theology*, Cambridge: Cambridge University Press, 1996, p. 10.

¹⁴⁴ 'Thinking and Moral Considerations', in *Responsibility and Judgment*, p. 171.

¹⁴⁵ *Towards Perpetual Peace*, p. 94.

that ground ethics without particular reference to Otherness, but a concern precisely for attentiveness to the moral status of other persons.¹⁴⁶ As Adorno comments on the Kantian categorical imperative:

When Kant states that his own imperative is simply given, that assertion doubtless contains all kinds of grimly authoritarian and irrationalist elements, but also... an awareness that the sphere of right action does not coincide with mere rationality, that it has an 'addendum'.¹⁴⁷

This 'addendum' in the thought of Levinas, an element of the ethical prior or otherwise than the rational, is a spontaneous goodness – which will also be considered, as the argument progresses, as a form of *grace*.

Conclusion: Another Ethos – Sovereignty as Responsibility

Anya Topolski argues that there is an ethical lacuna (a failure to think alterity) in Arendt, and a political lacuna (a failure to think plurality) in Levinas, and that plurality and alterity can be brought together under the banner of 'relationality', built upon four 'background elements' that these thinkers have in common: the Shoah, phenomenology, Heidegger and the Judaic.¹⁴⁸ Key to this idea of relationality, according to Topolski, is a shared sense of responsibility.¹⁴⁹ Yet as the preceding reflections indicate, their understanding of responsibility differs markedly, becoming acute around their interpretation of the 'Rights of Man'.

To summarise: the presence of stateless persons in the post-World War Two era and up to the present day has left a moral lacuna within the sphere of the Westphalian international political system: how to guarantee the human dignity of those lacking state citizenship? In the absence of alternatives to the nation-state system, some form of guarantee is needed – a new political principle - to provide that dignity.

Hannah Arendt's own approach to this is political – she is suspicious of the efficacy of the natural 'rights of man' and believed that a political solution is needed to provide the guarantee. However, there are some issues with her account. In denying the place of 'natural' rights, she ultimately begs the question of why states (or another political entity to be determined) should be committed to the provision of positive political rights. What is it that requires or urges the recognition of human dignity? Why is this a political good to be secured? The answer may seem self-evident, but it needs to be explained; this is because, as this thesis asserts, there is political force to the Levinasian understanding of exposure to the suffering of the other person, in that it provokes a human response of responsibility which is then translatable in political terms as welcoming and refuge, and provides criterion for judgment of the justness of state actions.

¹⁴⁶ Badiou, A. (Trans. Hallward, P.) *Ethics: An Essay on the Understanding of Evil*, New York: Verso Books, 2000. See in particular the Introduction where the manifold understandings of ethics in modern philosophy are contrasted – among them Kantian, Levinasian-Derridian (and Irigaray, Spivak et al), and Badiou-ian, where the differences are not minor.

¹⁴⁷ Adorno, T. (Tiedemann, R. ed., Jephcott, E. trans.) *Metaphysics: Concepts and Problems*, Stanford: Stanford University Press, 2001, p. 116.

¹⁴⁸ Arendt, *Levinas and a Politics of Relationality*, p. 180.

¹⁴⁹ Arendt, *Levinas and a Politics of Relationality*, p. pp. 190-195.

Additionally, there is a political problem in that the politics of asylum globally are governed by what is termed here as the ‘calculus of moderation’- apparently self-evident and self-justifying limits to the accommodation of stateless persons which may in fact be little more than assertions.

Therefore, there is a question here of whether justice for stateless persons – in this context, the guarantee of their human dignity – should be limited by measure, or a particular formulation of measure; or whether justice for others (‘the relation with the Other, that is, to justice’ is how Levinas defines justice itself)¹⁵⁰ precisely requires forms of interrupting, suspending or exceeding measure, the engendering of an *ethos* of allowing or risk-taking in order to provide the guarantee so needed. This *ethos* is bound up with the identity, meaning and signification of a state – what is the goal, the *telos* of a state? Can it be re-cast beyond self-interest into a mode of responsibility? Can the goal of securing the rights of ‘man’ be posited as the primary goal of the state, as expressed in Article Two of the Declaration, even where those rights do not equate to those of the ‘citizen’?

Taken together, these two provocations to extant political thought – how to conceive of human dignity (the *possibility* engendered by a Levinasian phenomenological ethics) and the putting into question of measure (via a Derridian thought of *impossibility*) – are put forward in this thesis as the necessary conditions of an engendering of a different conception of sovereignty, where the *telos* of the state is that of responsibility rather than merely self-interest, or even of a responsible state (that does assist asylum-seekers) that had not sufficiently interrogated its sense of limits: that the state become the speaker of the Levinasian ‘*me voici*’, ‘here I am’, the respondent to the cry of distress. To be clear this is neither a question of what a just *institution* would look like (which is a Rawlsian approach), nor even what every just outcome would look like; but rather what guiding *ethos* for the state would be likely to make a state behave justly, and thus engender both just institutions and outcomes.¹⁵¹ The term *ethos* denotes not simply a set of ethico-political guidelines to be applied, but more fundamentally, a question of self-understanding – how should polities conceive of their own identity, when it comes to responsibility for stateless persons?

Subsequent chapters take up each of these issues. In the following chapter, the potential contribution of Levinas to political theory – in meeting the lack of a grounding for rights explored in this chapter in relation to Arendt – via his phenomenology of the encounter with the other person will be explored. In that chapter and the one after on Derrida, the problem of the calculus of moderation will also be interrogated, with a view to exploring an alternative conception of the political that could include moves beyond measure and calculation – moments of suspension or interruption which would inform a just politics (a theme which will be most fully explored in Chapter Six, where a different Goddess to Justitia emerges as emblematic of such gestures, a grace beyond justice – Athena’s casting vote for Orestes in *The Eumenides*).

¹⁵⁰ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 1969, p. 89.

¹⁵¹ See a good discussion on this point in the Introduction by Amartya Sen to Smith, A., *The Theory of Moral Sentiments* (250th Anniversary Edition), London: Penguin Books, 2009, pp. xvi-xvii.

CHAPTER TWO: POSSIBILITIES OF LEVINAS

The epiphany of the face qua face opens humanity.¹ – Emmanuel Levinas

Introduction

In Chapter One, Hannah Arendt's response to her own demand – a 'new guarantee' of human dignity – was critiqued as a response that refrains from identifying the ethical locus of the dignified human subject. In this chapter the focus turns to the ethical philosophy of Emmanuel Levinas as a means of addressing that demand adequately. The argument is that an understanding of ethics rendered via phenomenology – exposure to the other person – is required to ground the guarantee that Arendt seeks. Levinas's phenomenological ethics goes beyond treating human dignity either as a product of political agreement (Arendt), or the disembodied, bloodless liberalism which fails to account for the interruption occasioned by the direct encounter with the vulnerable subject, and which reduces humanitarian politics to a question of numbers, limits and calculation. Levinasian ethics – especially his notion of the 'Face', which will be explored in this chapter – represents a mode of transcendence lacking in Arendt's account, and produces the possibility of reorienting the focus of political considerations in regard to refugees and asylum-seekers.

This chapter presents a reading of Levinas as a thinker of ethical *possibility*. The interpretation made by Derrida of Levinas in *Adieu* is here reversed as to the isolated treatment of a specific term: Derrida infers a thinking of hospitality, 'an immense treatise of *hospitality*', despite the general lack of use of the word hospitality in Levinas's work.² But 'possibility' is a word that is found constantly throughout the Levinasian corpus (numerous examples are given below), though it does not seem to have been noticed. Very often in explaining the import of his ethics, Levinas will use this word to demonstrate that an ethical response is always *possible*; attentiveness to this term and its signification in his writings thus opens a new reading in Levinas studies.

Firstly, the philosophy of Levinas will be outlined in its relation to political concerns – far from being confined to philosophy, it will be argued that his work is explicitly political in exigency and import. The two elements of a political '*ethos of responsibility*' explored in Chapter One – the importance of 'Face' as the locus of the dignified subject, and the putting into question of measure in the context of asylum – are articulated. After which, a reading of Levinas as a thinker of ethical *possibility* is explored, leading into a discussion of Levinas on the 'Rights of Man' in relation to human dignity as a means of determining the just nature (or not) of the state. Levinas is sometimes criticised for not providing a means to determine what decision should be made in a given political context – that he gives not an ethics but an 'ethics of ethics', a way of showing how ethics function in general terms but not in practice – that he fails to provide what might be considered *criterion for judgment*.³ This critique will be countered here by showing that what Levinas (and in the next chapter, Derrida)

¹ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 213.

² Derrida, J., *Adieu to Emmanuel Levinas*, Stanford: Stanford University Press, 1999, p. 21.

³ See Levinas's remark in an interview: 'My task does not consist in constructing ethics; I only try to find its meaning. In fact I do not believe that all philosophy should be programmatic...One can without doubt construct an ethics in function of what I have just said, but this is not my own theme.' Levinas, E., (trans. Cohen, R.) *Ethics and Infinity: Conversations with Philippe Nemo*, Pittsburgh: Duquesne University Press, 1985, p. 90.

provides is not a program for decisions (a pre-determined program would in any event not be ethically responsible, as it would not respond to the event as such, the uniqueness of each new context), but rather an *ethos* that can guide decisions: a just political decision will be that which accords with the dignity of human beings, to be understood via a particular conception of the ethical to be explored below.

The Very Humanity of Man: Levinas contra Heidegger (and Arendt)

It is often held that Levinas has little or nothing useful to say in the context of political philosophy. This attitude was evinced in a recently published exchange between the philosopher Alain Badiou and Alain Finkielkraut (who is a long-time advocate for the study of Levinas):

Finkielkraut: [...] I could mention Levinas and Rosenzweig, for example.

Badiou: What are their contributions to political philosophy?

Finkielkraut: There are some.

Badiou: That's debatable...

Finkielkraut: I think that any reflection on totalitarianism has much to gain from a reading of Levinas's *Totality and Infinity*.⁴

As Robert Bernasconi explains, 'his [Levinas's] task is to find the sense of ethics and not to construct an ethics'.⁵ In political terms, this ethics unfolds not as the specific programmatical decision in each event, but rather what such a decision should look like, given a certain ethical orientation. It is that which comports with respect for the Face – the locus of human dignity – and the behaviour of the political actor responding to it.

Levinas was famously reticent about his own political views, beyond affirming that he was a 'democrat'.⁶ His unfortunate remarks about the massacres of Chabra and Shatila – where he held that the other could also be an enemy - can be interpreted as a defence of the State of Israel despite questionable actions. Yet he was also reticent on the subject of Israel, his reason being that he was not running the risks of those living there, thus a reluctance to criticise their decisions.⁷ Moreover, the radio interview in which he makes his remarks on the massacres commence with an emphasis of moral responsibility for others – hardly an excusing of Israel's actions. Nevertheless, the commonly held view that Levinas rarely commented on politics or explained the implications of his work for practical political decisions, is entirely valid. However, this must be understood in the sense of Bernasconi's observation of finding the sense of ethics rather than constructing an ethics (Derrida says similarly that he provides an Ethics of ethics).

Levinas was steeped in the phenomenological tradition; it was he who introduced Husserl into France via his translation of Husserl's texts from German to French, and he studied under Heidegger

⁴ Badiou, A., and Finkielkraut, A., (trans. Spitzer, S.) *Confrontation: A Conversation With Aude Lancelin*, (Cambridge: Polity Press, 2014), p. 121.

⁵ Bernasconi, R., 'Ethics of Suspicion', *Research in Phenomenology*, no. 20, 1990, p. 9.

⁶ 'In the Name of the Other', *Is It Righteous to Be?*, p. 195: 'Listen, I am a democrat. What more would you like me to say?'

⁷ For more on both these points plus an excellent overview of Levinas's relationship to politics, see Caygill, H., *Levinas and the Political*, London: Routledge, 2002.

at Freiburg University. The immense impact that Heidegger had on philosophy, especially with *Being and Time*, was decisive for the development of Levinas's own thinking.

Yet the events of what Levinas described in short-hand as '1933' – which may be taken to include both Hitler's ascension to power, and Heidegger's assumption of the rectorship – left in him a permanent wound. He was forever troubled by these events, referring to them frequently in interviews into his later years; his life was dominated by the 'presentiment'⁸, the experience and aftermath of the Nazi horror and the Shoah in which most of his family perished. Heidegger's political commitment provoked in Levinas a radical re-thinking of Heidegger's philosophical work. He began to wonder whether that work, which for him lacked a focus on ethics, harboured within it the clues to Heidegger's allegiance to Nazism: 'The absence of concern for the other in Heidegger and his personal political adventure are linked.'⁹ Heidegger's philosophical work did not prevent him from allegiance to the worst, and thus: 'It is not, surely, to Heidegger that one should turn for instruction in the love of man or social justice.'¹⁰ In a famous inversion, Levinas thinks philosophy in precisely opposite terms: 'Philosophy is the wisdom of love at the service of love.'¹¹

Does Heidegger's focus on ontology – the investigation into Being and the being of Beings, *Dasein* – promote an egoistic self-concern that fails to respond to the needs of others? As Phillipe Lacoue-Labarthe puts it: '...did fundamental ontology and the analytics of *Dasein* harbour within them the possibility of a commitment to fascism? And if so, to what sort of fascism?'¹² That is, in contemplating the mode of being of *Dasein*, its being-towards-death and authenticity, is there an emphasis on the Spinozan *conatus essendi*, which Levinas interprets as being concerned only with the preservation of one's own being?¹³ Lacoue-Labarthe mentions two potential problems with Heidegger's view: 'the relatively secondary and rather cursory treatment of the analytics of *Mitsein*' [being-with, sociality]; and 'a certain overdetermination of a historical *Dasein*, co-extensive with its relegation to a secondary place, by the concept (itself also unquestioned) of 'people' (*Volk*)'.¹⁴ This is very close to Levinas's suggestion that '...political totalitarianism rests on an ontological totalitarianism'¹⁵, or as his friend Maurice Blanchot summarises in *The Writing of the Disaster*: the disaster 'has already diverted the word "be"';¹⁶ as Levinas notes, the 'da of *da-sein* is already an ethical

⁸ Levinas refers more than once to a sense of the horrors of Nazism that he anticipated before they arrived; his reference to 'presentiment' occurs in 'Signature', a text in *Difficult Freedom*; he also speaks in the letter prefacing *On Escape* of the 'forebodings' that his words 'harbored' prior to the disaster. It was a hell that he saw coming, precisely because he intuited the essence of Hitlerism as that which strikes at the very 'humanity of man', and thus its inhuman consequences. It would be fascinating – but cannot be pursued here – to read these texts of Levinas alongside the works of Kafka, who is also often attributed (somewhat poetically, perhaps inappropriately) a kind of haunting prescience as to the trials of persecution that were to come (and indeed, his three sisters all perished in Auschwitz).

⁹ Critchley, S., and Bernasconi, R. (eds.), Introduction by Critchley to *The Cambridge Companion to Levinas*, Cambridge: Cambridge University Press, 2002, p. 13.

¹⁰ Levinas, E., 'Martin Buber and the Theory of Knowledge', *Proper Names*, Stanford: Stanford University Press, 1997, p. 33.

¹¹ Levinas, E., *Otherwise Than Being or Beyond Essence*, Pittsburgh: Duquesne University Press, 2008, p. 162.

¹² Lacoue-Labarthe, P., *Heidegger, Art and Politics: The Fiction of the Political*, Oxford: Basil Blackwell Ltd, 1990, p. 108.

¹³ In the *Dialectic of Enlightenment*, Adorno and Horkheimer argue that this Spinozan concept forms the basis of the modern world. Adorno, T., and Horkheimer, M. (ed. Noerr, G.S., Trans. Jephcott, E.) *Dialectic of Enlightenment: Philosophical Fragments*, Stanford: Stanford University Press, 2002, p. 22.

¹⁴ *Heidegger, Art and Politics*, p. 108.

¹⁵ Levinas, E., 'Freedom of Speech', in (Hand, S. trans.) *Difficult Freedom: Essays on Judaism*, Baltimore: John Hopkins University Press, 1997, p. 206.

¹⁶ Blanchot, M., *The Writing of the Disaster*, Lincoln: University of Nebraska Press, 1995, p. 36.

problem'.¹⁷ This is because according to Levinas, being in place is already domination, as he often liked to quote Pascal: "'That is my place in the sun". That is how the usurpation of the whole world began.'¹⁸ Thus the question that gives the title to a major collection of his interviews: *Is It Righteous To Be?: 'Is there some sort of underlying evil in its [being] very positivity?'*¹⁹

In Chapter One this ontological problem was posed – the place of 'the very humanity of man' in the political - in light of an elemental politics ('Hitlerism') that seeks to dominate living beings:

...the conviction that the source of the bloody barbarism of National Socialism lies not in some contingent anomaly within human reasoning, nor in some accidental ideological misunderstanding. This article expresses the conviction that this source stems from the essential possibility of *elemental Evil* into which we can be led by logic and against which Western Philosophy had not sufficiently insured itself.²⁰

This suspicion concerning Heidegger's thinking of being leads Levinas to seek an 'escape' from that thinking, and to the need for 'getting out of being by a new path.'²¹ Why is it necessary to get out of being? In an exhortation to the German people to vote for Hitler, Heidegger writes of the meaning of the decision faced in the election: 'It consists in the most basic demand of all Being {Sein}, that it preserve and save its own essence.'²² Being is that which is self-concerned, and which lacks concern for others, as Levinas puts it: 'Every civilisation that accepts being - with the tragic despair it contains and the crimes it justifies - merits the name "barbarian".²³ A self-interested civilisation may either be indifferent or even actively hostile to others – whether the other is internal or external, provokes the need for flight from such a conception of being:

Therefore the need for escape – whether filled with chimerical hopes, or not, no matter! – leads us into the heart of philosophy. It allows us to renew the ancient problem of being qua being. What is the structure of this pure being? Does it have the universality Aristotle conferred on it? Is it the ground and the limit of our preoccupations, as certain modern philosophers would have it? On the contrary, is it nothing else than the mark of a certain civilization, firmly established in the fait accompli of being and incapable of getting out of it? And, in these conditions, is *excedence* possible, and how would it be accomplished? What is the ideal of happiness and *human dignity* [emphasis added] that it promises?²⁴

Thus for Levinas, there is at once a 'profound need to leave the climate of that [Heideggerian] philosophy, but also 'the conviction that we cannot leave it for a philosophy that would be pre-Heideggerian'.²⁵ Levinas recognises the brilliance of Heidegger's analyses, and the necessary overcoming of metaphysics entailed in that thinking; even in contexts where he is addressing

¹⁷ Levinas, E., *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 48.

¹⁸ Epigraph to *Otherwise Than Being*.

¹⁹ Levinas, E., *Existence and Existents*, Pittsburgh: Duquesne University Press, 2001, pp. 4-5.

²⁰ Levinas, E., Prefatory note to 'Reflections on the Philosophy of Hitlerism', *Critical Inquiry*, No. 17 (Autumn 1990), p. 63.

²¹ Levinas, E., *On Escape*, Stanford: Stanford University Press, 2003, p. 73.

²² Heidegger, M., 'German Men and Women!', in Wolin, R. (ed.), *The Heidegger Controversy: A Critical Reader*, Cambridge: MIT Press, 1993, p. 47.

²³ *On Escape*, p. 73.

²⁴ *On Escape*, p. 56. 'Excedence' is explained in a footnote to *On Escape* on p. 115, as a climbing-out-of or escape-out-of.

²⁵ *Existence and Existents*, p. 4.

Heidegger's Nazism, his praise for *Being and Time* is undiminished.²⁶ But the need to leave this philosophical climate (a need expressed in a book written in a prisoner of war camp for Jewish soldiers during the Second World War)²⁷ becomes pressing for Levinas, whose life was 'dominated by the presentiment and the memory of the Nazi horror',²⁸ in order, like Arendt, to find a new security for human dignity.

His work from 1933-34 onwards (that is, after his early work on Husserl and Heidegger), sets off from a reaction to horror at political calamity; it has a manifestly political exigency, and even as a philosophical work, concerns a particular contamination of a philosophy by a politics. (Thus the attitude of Badiou, who is hardly alone in this view, is misplaced; while not a political philosopher, Levinas is a philosopher very much concerned with philosophical questions that have political implications, and political harms that beg philosophical questions concerning the nature of the human subject).²⁹ Michael Fagenblat, commenting on Howard Caygill's book *Levinas and the Political* provides a succinct summary: 'In Caygill's view, the Holocaust, for Levinas, is the ever-present specter of political evil, not unlike the Hobbesian state of nature. Levinas's account of ethics therefore is established on the basis of radical political evil but is also always haunted by it. In Caygill's words, "The political present is largely absent in Levinas's texts, leaving marks as the memory of horror or the prophetic intimation of peace".'³⁰

The meaning of Levinas's work as it relates to political evil might also be understood by reference to the following passage from Theodor Adorno, which could easily have been written as a summary of Levinas:

Hitler has imposed a new categorical imperative on human beings in their state of unfreedom: to arrange their thoughts and actions in such a way that Auschwitz should never be repeated, that nothing of the sort should ever happen again. This imperative is as resistant to explanation as was the given nature of Kant's imperative in its day. To treat it discursively would be an outrage: it gives us a bodily sensation of an external moral factor. "Bodily", because it represents our active sense of abhorrence in the face of the intolerable physical pain to which individuals are exposed.³¹

The 'bodily sensation of an external moral factor' to which one is 'exposed' via the pain of individuals, that has been brought to attention by Nazi horror – this could serve as a definition of the impetus to Levinas's thought. As discussed in Chapter One, attentiveness to the phenomenological encounter with others is something Levinas sees as lacking in the Occidental politico-philosophical

²⁶ Robbins, J. (ed.), *Is It Righteous To Be?: Interviews With Emmanuel Levinas*, Stanford: Stanford University Press, 2001, p. 32: 'Of course, I will never forget Heidegger's relation to Hitler. Even if this relation was only of a very short duration, it will be forever. But the works of Heidegger, the way in which he practiced phenomenology in *Being and Time* – I knew immediately that this was one of the greatest philosophers in history'. See also similar remarks in 'As if Consenting to the Horror', *Critical Inquiry*, Vol. 15, No. 2, Winter 1989, pp. 485-486.

²⁷ *Existence and Existents*, p. xxvii: 'These studies begun before the war were continued and written down for the most part in captivity.'

²⁸ Levinas, E., 'Signature', in *Difficult Freedom: Essays on Judaism*, p. 291.

²⁹ As will be seen in the next chapter, Derrida reads Levinas in *Adieu* as a thinker whose work has significant implications for politics.

³⁰ 4th footnote to Preface, Fagenblat, M., *A Covenant of Creatures: Levinas's Philosophy of Judaism*, Stanford: Stanford University Press, 2010, p. 199. See also Bernstein, J., 'Evil and the Temptation to Theodicy', in *The Cambridge Companion to Levinas*.

³¹ Adorno, T. (ed. Tiedemann, R.), *Can One Live After Auschwitz? A Philosophical Reader*, Stanford: Stanford University Press, 2003, p. xiv. See also Adorno, T., *Negative Dialectics*, New York and London: Continuum Publishing Group Inc, 2007, pp. 17-18: 'The need to lend a voice to suffering is a condition of all truth.'

tradition. The other is not merely an abstraction, but lives (or suffers) from material factors: 'We live from "good soup", air, light, spectacles, work, ideas, sleep, etc...These are not objects of representations.'³² Materiality, physicality, the ontological reality of being, is indeed necessary to emphasise in a philosophy that treats the ethical: 'the other concerns me in all his material misery'.³³ But Heidegger, despite being a philosopher of being, does not have a strong ethical signification in his work (even *mit-sein*, being-with, is not ethical or moral in the same sense as in Levinas) – there seems to be a lack of concern for others in his work: 'I don't believe he thinks that feeding the hungry and clothing the naked, that is, giving, is the meaning of being or that it might be above the task of being...the emphases in his analyses are elsewhere.'³⁴ Hence the modification of Heidegger's thought that Levinas proposes: the '...entrance of the beggar into "the house of Being"'.³⁵ The figure of the beggar, or those of the 'widow, orphan and stranger', is that which disrupts the ordered economies of self-concern: 'It is as if the emergence of the human in the economy of being upset the meaning and plot and philosophical rank of ontology.'³⁶ Even where Heidegger's work on ethics is extraordinary – such as the 'Letter on Humanism' – it begs the question of how a thinker who can recognise the limits of metaphysical humanism and so convincingly call for a better understanding of the essence of *humanitas*, can have aligned with such a terrible political movement that undertook precisely the negation of the human for so many millions of people, which at the time of writing the letter he must have been aware of. Adorno comments on the aftermath of the Shoah: 'Millions of Jews have been murdered, and this is to be seen as an interlude and not the catastrophe itself'³⁷, a thought also reflected in Richard Cohen's dry remarks in the Introduction to Levinas's *New Talmudic Readings*: 'Not in the excesses of fascism, or mechanised impersonal war, or mass death, or the levelling of Rotterdam, Dresden or Hiroshima, or the Rape of Nanjing, or slave labor camps, or the crematoria at Auschwitz [sic], but in humanism, of all things, would Heidegger discover the scourge of human wilfulness...So much for the celebrated subtleties of *Denken*.'³⁸ Whether Levinas is entirely correct in his critique of Heidegger is sometimes contested; what is incontestable, however, is Heidegger's personal connection to fascism, and the troubling possibility of his philosophy being implicated in that commitment.³⁹ Perhaps the most devastating summary of Heidegger in this context is that given by Jean Améry, reflecting on the philosophy of being from the perspective of the concentration camp:

Occasionally, perhaps that disquieting magus from Alemannic regions came to mind who said that beings appear to us only in the light of Being, but that man forgot Being by fixing on beings. Well now, Being. But in the camp it was more convincingly apparent than on the outside that beings and the light of Being get you nowhere. You could *be* hungry, *be* tired, *be* sick. To say that one purely and simply *is*, made no sense. And existence *as such*, to top it off, became definitively a totally abstract and thus empty concept. To reach out beyond concrete reality with words became before our

³² Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Duquesne: Duquesne University Press, 1969, p. 110.

³³ Introduction to *Is It Righteous To Be?*, p. 15.

³⁴ *Is It Righteous To Be?*, p. 177.

³⁵ 'Paul Celan: From Being to the Other', *Proper Names*, p. 40.

³⁶ Levinas, E. *Entre Nous: Thinking-of-the-Other*, New York: Columbia University Press, 1998, p. xiii.

³⁷ Adorno, T., *Minima Moralia: Reflections From Damaged Life*, New York: Verso Books, 2005, p. 55.

³⁸ Levinas, E. (trans. Cohen, R.) *New Talmudic Readings*, Pittsburgh: Duquesne University Press, 1999, p. 2.

³⁹ For a view contesting Levinas's interpretation of Heidegger, see Bernasconi, R., and Wood, D. (eds.) *Provocations of Levinas: Rethinking the Other*, London: Routledge, 1988, pp. 15-16. Heidegger in the 'Introduction to Metaphysics' referred to the 'inner truth and greatness' of the 'movement' – that is, Nazism. Karl Lowith, Heidegger's former student who met with him in Italy in 1936, commented to Heidegger that he felt his political commitment stemmed from his philosophical work, and Heidegger readily agreed – see Lowith, K., 'My Last Meeting With Heidegger', in *The Heidegger Controversy*, p. 142.

very eyes a game that was not only worthless and an impermissible luxury but also mocking and evil. Hourly, the physical world delivered proof that its insufferableness could be coped with only through means inherent in that world.⁴⁰

This reproach to Heidegger is also apposite in respect of Arendt, to the extent that she wants to address moral calamity in strictly political terms. Vladimir Jankélévitch insisted upon the need to recognise the dignity of humans qua human *beings*, and not by their social or political predicates:

It was the very being of humanity, *esse*, that racial genocide attempted to annihilate in the suffering flesh of these millions of martyrs. Racist crimes are an assault against the human being *as human being*, not against such and such a person, inasmuch as he is this or that (*quatenus*) communist, Freemason, or ideological adversary, for example. No, the racist truly aimed at the beingness of the being, that is, at the human of every human being.⁴¹

In response to both Heidegger and to the horror, Levinas seeks to rearticulate philosophy, a philosophy that, as Rolf Tiedemann writes apropos of Adorno: ‘...must be a philosophy in which the suffering in the death camps is present in every one of its sentences, a philosophy that recalls not the shadow of the tall plane trees of the banks of the Illisus but Celan’s “shadow/of the scar up in the air”.’⁴² Philosophy, given this urgency, is thus reconfigured as a moral concern, in order to give the latter primacy over the former: ‘Morality is not a branch of philosophy, but first philosophy.’⁴³ An ethics of humanist concern represents an inter-ruption, a rupture or break with being as self-concern: ‘The human breaks with pure being, which is always a persistence of being. This is my principal thesis.’⁴⁴

Nazism is an extreme example of bad politics, and thus drawing moral lessons from it may seem to have an effect of the obvious; but it is the link to Heidegger and a thinking of ontology – and how that shaped the response of Levinas – that is important here. A politics of exclusion does not have to go to the same murderous extremes of Nazism to be following the same logical trajectory. Why, we might ask, does politics become in some cases exclusionary or hostile to difference, to certain groups of people? And what role can philosophy play in countering it?

In a famous inversion of the etymology of philosophy (the love of wisdom), Levinas writes that ‘Philosophy is the wisdom of love at the service of love’.⁴⁵ Love (without concupiscence, as he always emphasised) is the un-thought of philosophy;⁴⁶ ethics is to be raised above all other philosophy, rather than constituting one sub-branch of it. As he writes in *Totality and Infinity*, ‘This book will present

⁴⁰ Améry, J. (trans. Rosenfeld, Sidney & Stella), *At the Mind’s Limits: Contemplations by a Survivor on Auschwitz and its Realities*, Bloomington and Indianapolis: Indiana University Press, 1980, pp. 18-19.

⁴¹ Jankélévitch, V., ‘Should We Pardon Them?’, *Critical Inquiry*, Vol. 22, No. 3 (Spring 1996), Chicago: University of Chicago Press, p. 555. As argued in Chapter One, it is not that Arendt is wrong to advocate the Right to Have Rights – political solutions are required to safeguard human dignity – but the affront to human dignity qua affronted human being is required to inform the ethos of responsibility which can be pressed upon states, and provide criterion for judgment.

⁴² Introduction to Tiedemann, R., *Can One Live After Auschwitz?*, p. xviii. As is already apparent, there are a number of fecund comparisons to be made between Levinas and the Frankfurt School; space does not allow an in-depth treatment of this proximity, however it is most substantially addressed in the thesis Conclusion.

⁴³ *Totality and Infinity*, p. 304.

⁴⁴ ‘Evil and Theodicy’, in *The Cambridge Companion to Levinas*, p. 264.

⁴⁵ *Otherwise Than Being*, p. 162.

⁴⁶ See Simon Critchley’s remarks on this in relation to Levinas and Jean-Luc Marion in *The Ethics of Deconstruction: Derrida and Levinas*, Edinburgh: Edinburgh University Press, 1999, p. 102.

subjectivity as welcoming the Other, as hospitality'.⁴⁷ This thought is his 'one big thing' that he pursues, like a hedgehog knowing one thing as opposed to a fox knowing many: ethics is first philosophy, 'where ethics is understood as a relation of infinite responsibility to the other person.'⁴⁸ It is a point Levinas keeps returning to over and over, what Derrida described as the same wave returning to the same shore, deepening the analysis of the same thinking of the ethical.⁴⁹ It means giving priority to the other person; Levinas claimed his philosophy could be summarised in the human ceding it's first place: '*Après vous, Monsieur!* Ontological courtesy, being-for-the-other.'⁵⁰ In the very every-day-ness of the *après vous* is the entire meaning of his project, which nonetheless has significant implications for politics. For if the locus of the political subject is the primacy of the ego, then what matters most is one's own existence. Levinas opposes the primacy of the ego – for him there is something anterior to it, and that is exposure to the other, which manifests as responsibility, putting the other in the place of one's own self-concern, what Levinas refers to as *substitution*: 'The word *I* means *here I am* [me voici], answering for everything and for everyone.'⁵¹ In this reconfiguration, the rights of the *other* man become primary; his '...thesis is at the antipodes of Spinozism', that is, self-concern.⁵² And this responsibility for the other person is not limited only to those nearby, fellow citizens, but rather extend beyond state limits: 'Peace, peace to the neighbour and the one far-off'.⁵³

However, Levinas's philosophy does not begin and end with responsibility for one other person. For as soon as there is more than one other, the problem of the 'Third' – *le tiers* – is made manifest. That is, how is one to choose between competing claims upon one's solicitude?:

In my thinking, the political has a completely determined meaning. It is a fact that we are not two, that we are at least three. Straight away, in addition to the initial charity, since the relationship between two is a form of charity, there is "calculation" and comparison. In multiplicity, all faces count, and all the faces negate one another. Each one is elected as if by word of God, each one has a *right* [emphasis added]. Each face is also responsibility. Starting from the third one, I have to compare, compare the incomparable of the face with all possible "decency". The justice of comparison necessarily comes after charity. It owes everything to charity, but it constantly denies charity. That is already the political.⁵⁴

This, for Levinas, is the moment of justice (and 'is already the political'), having to weigh competing interests and decide between unique others: 'In any given society my responsibility for all may, and even must, manifest itself in limiting itself.'⁵⁵ Thus in his thinking, the necessity of judgment and decision are recognised as that which give effect to justice:

Justice is necessary, that is, comparison, coexistence, contemporaneousness, assembling, order, thematization, the visibility of faces, and thus intentionality and

⁴⁷ *Totality and Infinity*, p. 27.

⁴⁸ Critchley, S., 'Introduction', *The Cambridge Companion to Emmanuel Levinas*, p. 6. I share the view that this Introduction is probably the best summary for anyone intending to commence reading Levinas.

⁴⁹ Derrida, J., 'Violence and Metaphysics: An Essay on the Thought of Emmanuel Levinas', *Writing and Difference*, London: Routledge, 2001, footnote 7 on p. 399.

⁵⁰ 'The Vocation of the Other', *Is It Righteous To Be*, p. 106.

⁵¹ *Otherwise Than Being*, p. 113.

⁵² *Totality and Infinity*, p. 105.

⁵³ *Otherwise Than Being*, p. 157. Quote is from Isaiah.

⁵⁴ Weber, E., *Questioning Judaism: Interviews by Elisabeth Weber*, Stanford: Stanford University Press, 2004, p. 80.

⁵⁵ Levinas, E., *God, Death and Time*, Stanford: Stanford University Press, 2000, pp. 182-183.

the intellect, the intelligibility of a system, and thence also a copresence on an equal footing as before a court of justice.⁵⁶

However, the moment of justice is preceded by a preliminary affirmation of the other, for whom one can be entirely responsible until the arrival of a third; a certain goodness or affirmation, 'mad' in its non-rational manifestation, is anterior to justice: 'Thus passivity is *possible* [emphasis added] only if a pure madness can be suspected at the very heart of sense... [...] without the risk of this madness, meaning is fixed and consolidated in a norm or ideal where everything fits together.'⁵⁷

The references to a move beyond charity to justice in the above quotation are also important to note, in the context of Arendt's observations in *The Human Condition*: '...because the bond of charity between people...is incapable of founding a public realm of its own'. There is, for Arendt, an important difference between politics and charity, which she links to the 'general human experience of love' and 'Christian "brotherhood"', which represents a 'Worldlessness' where 'Worldlessness as a political phenomenon is possible only on the assumption that the world will not last'; but 'If the world is to contain a public space, it cannot be erected for one generation and planned for the living only; it must transcend the life-span of mortal men.'⁵⁸ For the continuity of political relations, a move from charity to justice is required – from spontaneous goodness and giving, to a weighing of interests and needs, the comparison of incomparables.

Disembodied Politics: Levinas contra Liberalism

In understanding the implications of Levinas's philosophy for politics, it is important to recall (briefly discussed in the previous chapter) that Levinas is also unsatisfied with liberalism: 'We must ask ourselves if liberalism is all we need to achieve an authentic *dignity* for the human subject.'⁵⁹ [emphasis added] For Levinas, there is a determinable locus of human dignity – the encounter with the Face. This view is in contradistinction to how liberalism typically operates, as Alasdair MacIntyre observed: 'Liberal political societies are characteristically committed to denying any place for a determinate conception of the human good in their public discourse, let alone allowing that their common life should be grounded in such a conception.'⁶⁰ But as discussed in Chapter One, liberalism as disembodied and abstract risks impotence against an 'elemental' politics of the kind pursued by 'Hitlerism', and indeed failed to stop the horrors:

The dramatic events of the 20th century and National Socialism, which overwhelmed a world built on the foundation of liberal principles. For better or worse, it was on this foundation of liberalism that the existence of the Jewish people rested and depended. Then came the events that tore from anti-Semitism its apocalyptic secret, revealing the extreme, demanding, and dangerous destiny of humankind.⁶¹

In the sense of understanding the sources of the maintenance of human dignity, *this is precisely opposite to Arendt*, who sought to safeguard human dignity in political principles (though not simply

⁵⁶ *Otherwise Than Being*, p. 157.

⁵⁷ 'Humanity is Biblical', in *Questioning Judaism*, p. 83.

⁵⁸ Arendt, H., *The Human Condition*, Chicago: University of Chicago Press, 1998, pp. 53-55.

⁵⁹ Prefatory Note, 'Reflections on the Philosophy of Hitlerism'.

⁶⁰ MacIntyre, A., *After Virtue: A Study in Moral Theory*, London: Bloomsbury Academic, 2011, p. xv.

⁶¹ Quoted in Finkelkraut, A., *In the Name of Humanity*, New York: Columbia University Press, 2000, p. 35.

liberalism); for Levinas, such principles are as feckless as Arendt finds the Rights of Man to be. There is nothing in political principles alone that will safeguard the guarantee of human dignity; Arendt acknowledges as much in *Origins* when she notes that a democracy might quite democratically decide to liquidate parts of humanity.⁶² On this account, politics thus requires something else to oppose the horror: As Howard Caygill writes, 'Against the principle of freedom and being as gathering or domination, Levinas seeks protection from elemental evil in the thought of a *human dignity* emerging from a fraternity in which humans are called by God to responsibility for the other man.'⁶³ [emphasis added] This is counter-posed to the conception of the rights of man derived in liberal thought. Simon Critchley wrestles with this across several pages of his recent book *The Problem With Levinas*: 'If what Levinas is always criticising is an idealist notion of the subject, namely, the subject as the sameness of mind and world, the subject as self-constituting, self-positing, self-legislating, and constituted by reflection, then the political analogue to idealism is liberalism.'⁶⁴ The liberal conception of the subject 'simply extends the unthinking privilege of theoretical consciousness onto the political domain, producing a subject of rights.'⁶⁵ While Critchley emphasises liberalism's distance from Levinas's work in terms of its disembodied nature, what also needs to be emphasised is the limitations of 'theoretical consciousness' as giving the horizon to the understanding of justice as a form of fairness; goodness for Levinas is understood in part as being beyond signification, ratiocination; he will even defend a certain "'mad goodness'" which is 'most human in man' and precedes not only thought but justice itself.⁶⁶

In order to clarify the distinctions between Arendt and Levinas on the topic of liberalism and human rights, it is useful to consider the work of John Rawls, a key proponent of a particular strain of political liberalism. To be sure, Rawls in elaborating his liberal Theory of Justice, does not make refugees an explicit theme; *A Theory of Justice* a priori excludes them as it pertains specifically to a bounded community.⁶⁷ And while *The Law of Peoples* discusses relations between peoples (nations or states), it does not take up the problem of how states are to make decisions with regard to human beings who have become stateless. For Rawls, peoples are self-enclosed moral universes with different moral codes in different regions (though he does recognise some basic moral standards of 'decent peoples'), where these differences are respected for the sake of global order.⁶⁸

By contrast with Rawls, Arendt – not simply a liberal – makes a moral claim about the status of stateless persons, as Benhabib summarises: 'In this sense this use of the term 'right' evokes a *moral imperative*: "Treat all human beings as persons belonging to some human group and entitled to the protection of the same." What is invoked here is a *moral claim to membership* and a *certain form of*

⁶² *Origins of Totalitarianism*, p. 299.

⁶³ *Levinas and the Political*, p. 31. The reference to God is jarring in this context, but should be understood as another name for the infinite or transcendent, that which is made manifest in the face of the other person. Levinas worked in an exegetical stream of Judaism, hostile to mysticism; and, on my reading at least, given his remarks about the end of theodicy in the essay 'Useless Suffering', can even be understood as an atheist. God signifies the otherwise-than-being, which is nevertheless recapitulated in philosophical terms: the translation of the Bible into Greek, is how he described his work at times – that is, the rethinking of a certain fund of Biblical moral concepts ('thou shalt not kill', et al) in philosophical language and conceptuality.

⁶⁴ Critchley, S., *The Problem With Levinas*, Oxford: Oxford University Press, 2015, p. 30.

⁶⁵ *The Problem With Levinas*, p. 34.

⁶⁶ *Is It Righteous To Be?*, p. 218.

⁶⁷ See Benhabib, S., 'The Law of Peoples, Distributive Justice, and Migrations', *Fordham Law Review*, Vol. 72, No. 5, 2004, p. 1763.

⁶⁸ From Benhabib, S., 'The Right to Have Rights in Contemporary Europe', p. 24. Paper retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.538.1742&rep=rep1&type=pdf>, 7/2/17.

*treatment compatible with the claim to membership.*⁶⁹ And while Rawls does refer to the necessity of the minimum recognition of decent standards of human rights, how to determine what these are in a world of disparate moral world-views?

Rawls moves from *A Theory of Justice* to *Political Liberalism* to recast what he means by a 'well-ordered society', which is no longer homogenous in its moral beliefs, but rather comes to agreement based on principles of 'free public reason' as to the legitimacy of political actions – an 'overlapping consensus'.⁷⁰ In other words, no orienting ethos of the good informs such a society; liberalism is a political formalism, bound by mutual agreement. Justice is what is reasonable to members of a society, not a trumping principle like, for example, the safeguarding of human dignity. The 'Rights of Man' pertain in a liberal society only if all members agree that they pertain via a system of procedural fairness. This is not to suggest that there are no moral implications to Rawls' arguments; but that any such moral claims are not self-justifying, but reliant on political agreement, and cannot, on the basis of Rawls' discourse, be extended to stateless persons.

What the Rawlsian Law of Peoples has in common with Arendt's notion of the Right to Have Rights is an emphasis upon reciprocity. Reciprocity as it relates to the Law of Peoples is described by Rawls:

Thus, the criterion of reciprocity applies to the Law of Peoples in the same way it does to the principles of justice for a constitutional regime. This reasonable sense of due respect, willingly accorded to other reasonable peoples, is an essential element of the idea of peoples who are satisfied with the status quo for the right reasons. It is compatible with ongoing cooperation among them over time and the mutual acceptance and adherence to the Law of Peoples.⁷¹

'Due respect' is due to 'other reasonable peoples', in order to maintain a stable and just international order. With respect to the Right to Have Rights, reciprocity is also an essential part of an international justice, but in relation to stateless persons, reciprocity would seem to be implied, if the exercise of that right is to be secured by mutual promise-making between states. Arendt does however, express some doubt this possibility, and with reference to the word reciprocity:

It is by no means certain whether this [the right to have rights] is possible. For, contrary to the best-intentioned humanitarian attempts to obtain new declarations of human rights from international organizations, it should be understood that this idea transcends the present sphere of international law which still operates in terms of *reciprocal* agreements and treaties between sovereign states; and for the time being, a sphere that is above the nations does not exist.⁷² [emphasis added]

Thus, while reciprocity is required for the Right to Have Rights to take hold, it also requires, on Arendt's account, a supra-state structure to be made effective.

⁶⁹ 'The Right to Have Rights in Contemporary Europe', p. 6.

⁷⁰ Rawls, J., *Political Liberalism*, New York and Chichester: Columbia University Press, 1993. For discussion of the move from *A Theory of Justice* to *Political Liberalism* see the Introduction; for the discussion of 'overlapping consensus' see Lecture Four.

⁷¹ Rawls, J., *The Law of Peoples, with the Idea of Public Reason Revisited*, Cambridge (Mass.) and London: Harvard University Press, 1999, p. 35.

⁷² Arendt, H., 'The Perplexities of the Rights of Man', in *The Origins of Totalitarianism*, San Diego, New York and London: Harcourt In, 1976, p. 298.

Rawls and Arendt both lack of any concept of a sense of the good that would transcend political agreement (as discussed in Chapter One with respect to Arendt, and above with respect to Rawls). Rawls' work has moral implications with regards to the articulation of a justice-as-fairness, and Arendt makes moral claims about the right to have rights grounded in the importance of recognizing human plurality. Yet in the lack of any appeal beyond what free peoples might agree between themselves, there is no idea of the good to which a polity can be held, no criterion for judgment external to those rights which are mutually agreed. But as has been already noted in relation to Arendt, what if states agree to engage in behaviours that are deleterious to human dignity for those outside the state (and yet meet standards of reciprocal agreement and promise-making within the state)? Such is often the situation of stateless persons, and rather begs the question of what criterion can a state be measured against, as to the justness with its acts towards stateless persons. Levinas is rather explicit in his opposition to understanding goodness via politics (note the criticisms of mutual obligation and reciprocity):

The inter-human perspective can subsist, but can also be lost, in the political order of the City where the Law establishes mutual obligations between citizens. Properly speaking, the inter human lies in a non-indifference of one to another, in a responsibility of one for another. The inter-human is prior to the reciprocity of this responsibility, which inscribes itself in impersonal laws, and becomes superimposed on the pure altruism of this responsibility inscribed in the ethical position of the self as self. It is prior to every contact which would signify precisely the moment of reciprocity where it can, to be sure, continue, but where it can also attenuate or extinguish altruism and disinterestedness. The order of politics—post-ethical or pre-ethical— which inaugurates the 'social contract' is neither the sufficient condition nor the necessary outcome of ethics. In its ethical position, the self is distinct from the citizen born of the City, and from the individual who precedes all order in his natural egoism, from whom political philosophy, since Hobbes, tries to derive—or succeeds in deriving—the social or political order of the City.⁷³

'The self is distinct from the citizen born of the City', and prior to 'the reciprocity of this responsibility'; Levinas is explicit that ethical responsibility is prior to political membership and compacts, and this thought directly aligns with a treatment of stateless persons as dignified even outside of their civic belonging or unbelonging. Thus while Levinas recognises with Arendt the need for ethics to be realised through political action, they part company on the question of the sense of responsibility that is (or should be) engendered by recognition of the plight of the stateless. As will become clearer in the section further below on the Rights of Man, Levinas provides a sense of ethics not in a way that will direct, philosopher-king style, the content of political decision, but rather sets out an *ethos* which might guide the political in a way that would comport with the demands of an ethics of goodness, translated politically into justice.

Ethics beyond Moderation: Levinas contra Aristotle

Reciprocity was identified above as a theme common to Rawls and Arendt. In this they are both faithful to Aristotle, who writes in the *Politics* that '...it is reciprocal equivalence that keeps a state

⁷³ 'Useless Suffering', in *The Provocation of Levinas*, p. 165.

in being'.⁷⁴ It is necessary for the present argument to consider the extent to which Levinas can be regarded as an anti-Aristotelean, an-economic thinker. One key difference between Levinas and Aristotle is aptly put by Catriona Hanley: 'For Levinas, peace is framed on the "each", that is, on the recognition of the individual whom I encounter as the unique and irreplaceable, and not on the universalizing "all" of our Athenian tradition.'⁷⁵ Each individual is to be considered in their uniqueness, and not as the element of a broader calculus. References to Aristotle do appear in Levinas, but infrequently, and Aristotle is certainly not the target of an ongoing polemic for Levinas, as Heidegger manifestly is. However, reading Levinas closely with an anti-Aristotelean theme kept front-of-mind is revealing: constant references to 'accounting', 'ledgers', 'calculus', 'commerce', 'moderation', 'reciprocity', 'book-keeping', mark his writings, almost always in a negative register, as that which negates the affirmation of the uniqueness of the other person, and reduces them down to one number among others: 'To limit oneself, in the matter of justice, to the norm of pure measure, or *moderation*, between mutually exclusive terms, would be to revert to assimilating the relations between members of the human race to the relation between individuals of logical extension, signifying between one another nothing but negation, additions or indifference' [emphasis added].⁷⁶ But he also recognises some calculation as unavoidable, as in this tortured passage from 'Ego and Totality':

We cannot attenuate the condemnation which from Amos II, 6 to the *Communist Manifesto* has fallen upon money, precisely because of its power to buy man. But the justice which must save us from economy, that is, from the human totality, cannot negate its superior form, where the quantification of man appears, the common measure between men, for which money, whatever be its empirical form, supplies the category. It is to be sure shocking to see in the quantification of man one of the essential conditions for justice. But can one conceive of a justice without quantity and without reparation?⁷⁷

Justice – that is, the moment of the Third and of weighing and calculation – is unavoidable, even rigorously necessary. But for Levinas, this is a regret; the reciprocity and moderation of which Aristotle approves, are constantly in his critical sights: in a letter to Buber concerning the differences between their thinking, he explicitly states that '[...] the relation is thus *essentially* dissymmetrical: such are the thoughts that were behind my "objection".'⁷⁸ Levinas's issue with liberalism is also his issue with a certain heritage of Ancient Greek thought: 'One must, then [with the advent of the Third] compare the incomparable. For me, this is the Greek moment in our civilization...The importance of knowing, the importance of comparing, stems from them; everything *economic* is posed by them, and we then come to something other than love.'⁷⁹ All thinkers of being-as-totality, moderation, reciprocity, economy are targeted in the Levinasian corpus (Heidegger, as has been seen, and Hegel also belongs on this list, via Levinas's reading of Rosenzweig).⁸⁰ What Levinas seeks, as suggested by the title of his

⁷⁴ Aristotle, *The Politics*, London: Penguin Books, 1992, p. 104.

⁷⁵ Hanley, C., 'Aristotle and Levinas on War and Peace', in *Levinas and the Ancients*, Bloomington: Indiana University Press, 2008, p. 130.

⁷⁶ 'The Rights of Man and the Rights of the Other', in *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 124.

⁷⁷ Levinas, E., 'Ego and Totality', *Collected Philosophical Papers*, Dordrecht: Martinus Nijhoff Publishers, 1987, p. 45.

⁷⁸ 'Dialogue with Martin Buber', *Proper Names*, p. 38.

⁷⁹ *Is It Righteous To Be?*, p. 133.

⁸⁰ References to Hegel are scattered in an insistent, though unsystematic way, in both *Totality and Infinity* and the lectures collected in *God, Death and Time*.

early essay, is *escape*⁸¹ – from philosophies that attempt to reduce human beings down to a measure, a totality, an economy or a self-interest: ‘Here [in ethics] there is no “human commerce”, not a simple swapping of responsibilities!’⁸² In his invocation of a madness of goodness that is prior to justice, he articulates an escape or interruption from the order of measure, even if that escape must ultimately re-enter into a calculation as part of justice: ‘Not that the interlocutor cannot be envisaged thematically and become the support of a judgement, but then he or she is precisely no longer the one I approach in dialogue, but the one I consider as a number within an aggregate whole, useful for some technically realizable plan.’⁸³

This logic of illogics, of escape, the madness of goodness, suspension of calculation – would have very serious implications in the context of a politics of asylum. It even suggests a horizon of justice that is beyond justice – which is explored further in Chapter Six on the theme of grace. In the moment of the encounter of the Face of the other, is the goodness prior to justice not a demand for the suspension of calculation, that is, of the limits of the state to provide justice? It is in this sense that the proposed *ethos* of responsibility must be thought. But before further exploring Levinas in relation to the Rights of Man in relation to asylum, the meaning of Face in his philosophy needs further articulation.

Excursus: On the Face

‘Face’ is undoubtedly one of the most important concepts in the Levinasian oeuvre. It is of particular importance in this context, as that which provides the grounding of human dignity vis-à-vis the Rights of Man (in contrast to Arendt’s scepticism, explored in the previous chapter), which then situates a political *ethos of responsibility*. But how is the Face to be understood?

‘The face is not at all what has been seen’.⁸⁴ It is important to stress that what Levinas means by this word is not at all coterminous with the colloquial association of face with visage, with the front of the head, the skin over the contours of the skull and the determinate features of eyes, nose, mouth and so on. Something else is intended by Levinas when he uses this term. It is defined in *Totality and Infinity* thusly: ‘The way in which the other presents himself, exceeding *the idea of the other in me*, we here name face.’⁸⁵ Face is related to a phenomenology of experience, but is itself prior to phenomenology: ‘To manifest oneself as a face is to impose oneself above and beyond the manifested and purely phenomenal form, to present oneself in a mode irreducible to manifestation, the very straightforwardness of the face to face, without the intermediary of any image, in one’s nudity, that is, in one’s destitution and hunger.’⁸⁶ Face is ‘irreducible to manifestation’: an interruption of the manifest, of signification and reduction of the other to cognition and capture via reason. It is connected to language and experience prior to intellection, the call for assistance of the other, spoken or not: ‘the relation with the face that presents itself in speech as desire – goodness and justice.’⁸⁷

⁸¹ *On Escape [de l’évasion]* is one of his earliest texts, written in the period after ‘1933’ when he reorients his work following Heidegger’s political commitment; Critchley argues at length in *The Problem With Levinas* that this constitutes the leitmotif of all Levinas’s work.

⁸² Levinas, E., *God Death and Time*, Stanford: Stanford University Press, 2000, p. 175.

⁸³ *Outside the Subject*, pp. 14-15.

⁸⁴ *Is It Righteous To Be?*, p. 144.

⁸⁵ *Totality and Infinity*, p. 50.

⁸⁶ *Totality and Infinity*, p. 200.

⁸⁷ *Totality and Infinity*, p. 296.

This occurs in a modality of immediacy⁸⁸ which is not yet mediated by manifestation; there is an ethical urgency to the Face, a demand placed upon the subject by the other requiring a response, that occurs via language:

I think that the beginning of language is in the face. In a certain way, in its silence, it calls you. Your reaction to the face is a response. Not just a response, but a responsibility. These two words [*réponse, responsabilité*] are closely related. Language does not begin with the signs that one gives, with words. Language is above all the fact of being addressed...which means the saying much more than the said.⁸⁹

Face is *exposure*, the *encounter* with the other person.⁹⁰ The pre-phenomenal shock of contact enters into a content of signification, which has the character of an affirmation of the other person. Hence the distinction between the 'Saying' and the 'Said': the Saying is that I address the other at all, that I am turned towards them, encounter and respond to them in all their vulnerability; the Said is the content of that saying. Dialogue, in sum, is an important mode of the intersubjective for Levinas: 'Justice is a right to speak.'⁹¹ But the *inter homines esse*, on Levinas's account, is not simply reciprocal, but the exposure of uniqueness: 'Justice consists in again making possible expression, in which in non-reciprocity the person presents himself as unique.'⁹² The notion of exposure is fundamental; beyond the contractualism of liberal theories of justice, Levinas insists upon the bodily reality of those to whom the work of justice pertains. It is necessary to be exposed to the Face for ethics to be possible:

Face, before any particular expression and beneath all expression that - already countenance given to self - hides the nakedness of the face. Face that is not unveiling but pure denudation of defenseless exposure. Exposure as such, extreme exposure to the precariousness of the stranger. Nakedness of pure exposure that is not simply emphasis of the known, of the unveiled in truth: exposure that is expression, a first language, call and assignation.⁹³

The Face opens the *possibility* of an ethical response; only possible because the suffering other can always be rejected, ignored, or harmed further; nothing guarantees an ethical response: 'Generosity is always menaced by the inhuman necessities of being in man and in economy, even and up through the ideologies that issue from generosity'.⁹⁴ But once the Face is perceived, there is no escape from making a response, positive or negative: 'The other is maintained and confirmed in his heterogeneity as soon as one calls upon him, be it only to say to him that one cannot speak to him, to classify him as sick, to announce to him his death sentence; at the same time as grasped, wounded, outraged, he is "respected"⁹⁵. These quote marks seem prudent; one can readily think of murderous examples throughout history that hardly recall "respect" firstly to mind. But the impossibility of

⁸⁸ *Totality and Infinity*, p. 52: '[...] the immediate is the face to face'.

⁸⁹ *The Provocation of Levinas*, pp. 169-170.

⁹⁰ Person should be understood here as the human person – his philosophy is thoroughly anthropocentric. Perhaps one can think hospitality in the context of animals, but this is not his theme, nor essential in the context of human asylum-seekers; but it should be noted as a general lacuna in the thought of Levinas.

⁹¹ *Totality and Infinity*, p. 298.

⁹² *Totality and Infinity*, p. 298.

⁹³ Levinas, E., *Alterity and Transcendence*, London: The Athlone Press, 1999, pp. 139-140.

⁹⁴ *Is It Righteous To Be?*, p. 120. The reference to 'ideologies that issue from generosity' is to the legacy of the socialism and communism, upon which Levinas often comments with a lament that the failure of these projects, ostensibly concerned with the welfare of humanity, is to be regretted – he is in sympathy with the moral purpose of such politics, even if not himself overtly a socialist or communist.

⁹⁵ *Totality and Infinity*, p. 69.

ignoring the Face (even if one pushes past it and commits indignities or atrocities) seems a plausible concept, one more way of helping us understand why we experience empathy or ever want to help others who are not personally close to us. *The epiphany of the Face is the opening of the possibility of an ethical response.*

‘As soon as one calls’ – the Face (*visage*) is (in Levinas’s curious metaphoric linkage) experienced through language; it is not the determinable visage of any particular human other, not limited, that is, to standard portraits or social constructions of suffering that are mediated through common experience, but rather via the apperception of suffering. But language can help or it can harm; even if language implies a preliminary affirmation, nothing prevents it from becoming a dehumanising tool, or the vehicle of condemnation, as the quote above recognises.⁹⁶ Language thus allows at best only the *possibility* of an ethical response. An ethical *saying* – affirmation of the other as the address of language – precedes the ontological *said*, the actual content of discourse and behaviour.

A recurring question to Levinas is whether the murderer has a ‘Face’ in his sense. In an interview, he is asked if an SS killer has a Face, and he answers ‘A very disturbing question which calls, in my opinion, for an affirmative answer’⁹⁷; yet in the same collection, when asked if Klaus Barbie (head of the Gestapo in Lyon during the Occupation, who tortured Jean Moulin to death and deported Jews to their deaths in the East, including the children of Izieu) remains ‘other’ for him, he says that he cannot find it within himself to pardon him⁹⁸. Thus Levinas’s own prevarications testify to the function of the Face – even as it arrests one’s attention, it may not alter our decision on how we treat the other person. The extreme example of this is perhaps that provided by George Steiner’s novella *The Portage to San Cristobal of A.H.*⁹⁹, wherein Israeli agents have captured an aged Adolf Hitler in South America and are bringing him out of the jungle; their handler reminds them repeatedly of his crimes and cautions them against falling into sympathy with the suffering – sweating, thirsty, pained – old man in front of them. Even the great monster of the Third Reich has a human ‘Face’ in the Levinasian sense! Thus there is something ‘weak’¹⁰⁰, that is, non-binding, in the concept of the Face – but this weakness might even be considered a superiority to other ethical ‘rules’ in its reflection of the unavoidable plasticity of human ethical experience and interaction.¹⁰¹ This is why such an ethics is not achievable as science – it retains the status of a call, interdiction, appeal and so on. The Face is not a rule or law – it is a call, the engendering of a *possibility* of an ethical response.

How the Levinasian Face might be understood in terms of politics, both theory and praxis, is an interpretive question. It emerges through testimony, through witnessing, with practices of listening and engagement, with direct contact or even in images and film. But most significantly, the

⁹⁶ For an excellent discussion of this in relation to Nazism, see Klemperer, V., *Language of the Third Reich*, London: The Athlone Press, 2006; also relevant are several works of George Steiner, especially *Language and Silence: Essays on Language, Literature and the Inhuman*; *In Bluebeard’s Castle*; and *After Babel: Aspects of Language and Translation*.

⁹⁷ *Is It Righteous To Be?*, p. 203.

⁹⁸ *Is It Righteous To Be?*, p. 236.

⁹⁹ Steiner, S., *The Portage to San Cristobal of A.H.*, Chicago: Chicago University Press, 1999.

¹⁰⁰ See the interview ‘The Proximity of the Other’, in which Levinas says: ‘So what distinguishes the face in its status from all known objects comes from its contradictory nature. It is all weakness and all authority.’ In Levinas, E., (trans. Smith, M.B.), *Alterity and Transcendence*, New York: Columbia University Press, 1999, pp. 104-105.

¹⁰¹ One might think of the inflexibility of the Categorical Imperative, for example, which lands Kant in great difficulty when he considers it necessary to reveal to the murderer that the person they seek is being harboured within the house when the killer comes to call. (See the remarks by Adorno quoted previously on the authoritarian nature of the imperative). The ‘Face’ – the vulnerability of the victim in this scenario – is in no way taken into account, but rather sacrificed on the altar of honesty as the necessary condition of all social interaction.

ultimate import of the Face for the political is that it will be bound up with the rethinking of the *ethos* of responsibility – in the context of such an *ethos*, the Face is that which the state goes out to meet, to be exposed to, to be affected by, to take responsibility for: ‘not just a response but a responsibility.’¹⁰²

In the context of Arendt’s call for a new guarantee of human dignity, the Face is that which can provide the locus of the dignified subject that she sees as lacking in the Rights of Man, which puts the state, the ‘I’ or self-concern, into question:

All these pages, which suggest a meaningfulness prior to representation, in which transcendental philosophy situated the origin of thought, have enabled us to hear, behind the already plastic forms in which the face does no more than present itself, re-present itself and appear as an image, and where, in that image, the face reveals itself as some thing - all those pages enabled us to hear (so to speak) the ancient, biblical call and command that awakens the subject to a responsibility for the other on the basis of an uprightness [droiture] that is exposure to death. Mortality, but also a *right* [emphasis added] that challenges the I, substantial and persevering remorselessly in its being, that Pascal called hateful.¹⁰³

What needs to be subsequently determined is the role of the Face in an ethical politics. As will be argued, apperception of the Face is that which produces the possibility of an ethical response to others. The role of possibility in the work of Levinas, and how it should be understood in ethico-political terms, is explored in the next section. Simon Critchley raises a pertinent question to the implications of Levinas’s work: it has ‘no account of the approval that would bind a subject freely to that demand. If ethics does not include some dimension of conscious agency, then it risks becoming sheer coercion.’¹⁰⁴ But Levinas is explicit on this point: ‘Ethics contrasts with intentionality, as it also does with freedom...It is as though there were here something before the beginning: an *an-archy*.’¹⁰⁵ Critchley’s demand for an agential *arche* to govern the ethical is thus curiously out of step with his own demand for forms of anarchism. But he is not incorrect *per se*; the point of dispute here is whether Levinasian ethics is simply coercion (it should, no doubt, be understood at least in part that – due to the use of words like hostage, trauma, persecution which Levinas employs).¹⁰⁶ But what is proposed in the present argument is another way to understand the Levinasian demand: as the engendering of a *possibility*.

The import of Levinas’s insistence upon a sense of good prior to intellection - another point on which he would be precisely opposed to Arendt – is illustrated by a short essay he wrote called ‘The Name of a Dog, or Natural Rights’. In the essay he recounts the indifferent way in which he and his fellow prisoners were treated in a prison camp in the war - and yet a small dog attached itself to his group, and barked for joy when they would return from work: ‘...for him, there was no doubt that we were men’, and as Levinas ironically puts it, ‘This dog was the last Kantian in Nazi Germany, without

¹⁰² I thank Dr Michael Ure of Monash University for focusing my attention on this important problem. For quote see Wright, T., et al., trans. Wright, T. and Benjamin, A., ‘The Paradox of Morality: An Interview with Emmanuel Levinas’, in *The Provocation of Levinas*, p. 169.

¹⁰³ *Alterity and Transcendence*, p. 130.

¹⁰⁴ *The Problem With Levinas*, p. 88.

¹⁰⁵ ‘Subjectivity as An-Archy’, in *God Death and Time*, p. 172.

¹⁰⁶ In ‘The Rights of the Other Man’, Levinas turns this objection back on Kant: ‘And *practical reason*’s intention, attributed to the will, of ensuring the right of man or the freedom of the neighbour – does it not cost free will its own right to freedom?...does it not bear some submission, attested, for example, by the law itself being lived and adopted as *dura lex*?’ in *Alterity and Transcendence*, pp. 148-149.

the brain needed to universalize maxims and drives.¹⁰⁷ That is, the power of thought and having a human brain to exercise judgment, and to engage in the dialogue of the two-in-one, was no guarantee of humane treatment. Remarks by Jankélévitch in the paper of pardon already cited, would tend to support this view: 'Years have passed since the last lot of unfortunates "entered nude into the gas chambers, forced by dogs and guards." By guards worse than their dogs.'¹⁰⁸ Further, Jankélévitch observes: 'Will anyone reproach us for comparing these malefactors to dogs? I swear in fact that the comparison is unfair to dogs. Dogs would not have invented the crematoria, nor thought to inject phenol into the hearts of children.'¹⁰⁹ These remarks by both Levinas and Jankélévitch could recall Heidegger's reflections in his work on Schelling:

But man is that being who can turn his own essential constituency around, turn the jointure of Being of his existence into dis-jointure. He stands in the jointure of his Being in such a way that he disposes over this jointure and its joining in a quite definite way. Thus, the dubious advantage is reserved for man of sinking beneath the animal, whereas the animal is not capable of reversing the principles.¹¹⁰

Levinas is often reproached for a failure to think the animal (and perhaps rightly so), but a thinking of both the animal in general and the human animal, might start profitably from a thinking of this non-thinking Kantian dog, which would also raise questions as to the efficacy of the power of thought to deter evil.¹¹¹ This does not mean that thought and self-reflection cannot play an important role in delimiting wrong-doing, but rather that there is a horizon of goodness that exists prior to thinking – of affect and experience.

Levinas and Possibility

A close-reading of Levinas's remarks in the significant collection of interviews titled *Is It Righteous To Be?*, reveals an interesting pattern.¹¹² Pressed by interlocutors to explain the meaning of his ethics, he repeatedly has recourse to the word *possibility* (without, however, himself overtly emphasising possibility as a leitmotif). Examples of this (with the emphasis added in each case) are listed below; it is important to note the register in which this word is used in these examples – always to indicate the possibility of an ethical response, an act of goodness:

¹⁰⁷ 'The Name of a Dog, or Natural Rights', in *Difficult Freedom*, p. 153.

¹⁰⁸ 'Should we Pardon Them?', p. 558.

¹⁰⁹ 'Should we Pardon Them?', p. 565. One might think automatically here of the infamous Dr Mengele, who experimented on patients at Auschwitz, and was a highly-educated person. Arendt's thinking of thinking is, of course, not of thinking about anything whatsoever (such as the use of intelligent technical skills, in the cases of Eichmann and Mengele), but about the capacity to reflect and exercise moral judgment. To recognise that the practice of that type of thinking is no guarantee against evil – what compels it?, what of someone who lacks or refuses to use that capacity? – is not to negate Arendt's point, but to question its limits.

¹¹⁰ Heidegger, M., (trans. Stambaugh, J.) *Schelling's Treatise on the Essence of Human Freedom*, Athens, Ohio and London: Ohio University Press, 1985, p. 144. This passage is subjected to a fascinating reading by Derrida in Derrida, J., *Of Spirit: Heidegger and the Question*, Chicago: University of Chicago Press, 1987, p. 103.

¹¹¹ For a discussion of the difference between ethics as philosophy, that is a knowing, versus ethics as first philosophy, prior to knowing (but which is then explained in terms of knowledge and truth), see the Introduction to Cohen, R. (ed.), *Face to Face with Levinas*, New York: State University of New York Press, 1986.

¹¹² *Is It Righteous To Be?* – page numbers given in the text above and below.

p. 55: 'I talked about holiness only as a *possibility*. But the human in being is that *possibility*. The *possibility* of hearkening to the original language of the face of the other in his misery and in his ethical command, this way of surmounting in one's own being one's effort to be'.

p. 106: 'The *possibility* of respect and of goodness are extraordinary *possibilities* with regard to nature, with regard to the perseverance in being: the *possibility* of holiness which, beyond the perseverance of a being in its being, would recognise the priority of an irreducible alterity.'

p. 107: 'In the discovery of the human, there is awakening of thought and contemplation. But this is the *possibility* of hearing behind being someone to whom one can give. This is moment of human awakening in being'.

pp. 110-111: 'In the expression of racism, one experiences human identity uniquely on the basis of its persistence in being...But that is not to encounter the face of the other, not to respond to the uniqueness of the other, not to recognize the *possibility* of sacrifice which in the event of being is the very overwhelming of the human. To experience the death of the other as a more serious matter than my own is humanly *possible*...it is the ideal of holiness which renders *possible* the love of the neighbour.'

p. 116: 'But also the eventual *possibility* for "goodness" to be understood'.

p. 120: 'In this *possibility* of disinterestedness, in this goodness, the awakening to biblical humanity is produced: to respond to the other, to the priority of the other'.

p. 152: 'What I have in mind is a *possibility* beyond all *possibilities*, and straight away still my *possibility*, a limit-concept, the beyond of "mine-ness".'

p. 170: 'The only absolute value is the human *possibility* of giving the other priority over oneself'.

p. 183: 'This holiness which cedes one's place to the other becomes *possible* in humanity'.

p. 204 [A particularly important example for purposes here, a summation]: 'The *possibility* of sacrifice as a meaning of the human adventure! *Possibility* of the meaningful'.

p. 204: 'This *possibility*, through sacrifice, of lending a meaning to the other and to the world'.

p. 211: 'It is because there is a vigilance before any awakening that the *cogito* is *possible*, in such a way that ethics is before ontology'.

p. 235: 'In the human, lo and behold, the *possible* apparition of an ontological absurdity. The concern for the other breaches concern for the self.'

And some examples from some of Levinas's other major works are listed below, in order to demonstrate that this language of possibility is not limited to interviews:

Existence and Existents

p. 100: 'Asymmetrical intersubjectivity is the locus of transcendence in which the subject, while preserving its structure's subject, has the *possibility* of not inevitably returning to itself, the *possibility* of being fecund'.

Totality and Infinity

p. 101: 'My freedom is thus challenged by a Master who can invest it. Truth, the sovereign exercise of freedom, becomes henceforth *possible*'.

p. 104: 'Then the plane of the needy being, avid for its complements, vanishes, and the *possibility* of a sabbatical existence, where existence suspends the necessities of existence, is inaugurated'.

Otherwise Than Being

p. 8: 'The task is to conceive of the *possibility* of a break out of essence'.

p. 50: 'Signification, as the one-for-the-other in passivity, where the other is not assumed by the one, presupposes the *possibility* of pure non-sense invading and threatening signification.'

p. 50: The reverting of the ego into a self, the de-posing or de-situating of the ego, is the very modality of dis-interestedness. It has the form of a corporeal life devoted to expression and to giving. It is devoted, and does not devote itself: it is a self despite itself, in incarnation, where it is the very *possibility* of offering, suffering and trauma'.

p. 69: 'becoming "for the other," the *possibility* of giving'.

p. 115: '[...] the *possibility* of every sacrifice for the other, activity and passivity coincide.'

Any longer concordance risks becoming redundant. The insistent use of this term would seem to be more than just a turn of phrase, but rather a recurring theme for how his sense of the ethical is to be understood. The question is: what does it mean to think ethical *possibility*?

An important signification of the word possibility is to indicate that ethics or goodness are not givens. Levinas, whose work responds to actual historical calamity, could hardly believe that goodness is innate or guaranteed, when considering the manifest cruelty of the fascists to which his work is largely a response. But in seeking to respond to calamity, he does seek to preserve the permanent possibility of goodness. It is the interruption of a subject's persistence in its own being by the other that introduces the possibility of the ethical response. *The possibility only* – Levinas nowhere says that the subject thus interrupted is guaranteed to respond in an ethical manner. But the possibility is opened. The Face is not in itself interdiction – if it was, there would be no face-to-face murder – but rather the appeal of interdiction¹¹³. The 'possibility of a sabbatical existence' – where one's striving for oneself, for the 'necessities of existence', is put to rest in order to focus on the needs of the other. The Face cannot be totally denied, even if one rejects its call; the experience of its irruption within the subject is inescapable once perceived. There are many examples of politicians whose outlook becomes more compassionate when they meet people affected by an issue – a Republican in the United States with a child who 'comes out' as homosexual, who reverses their stance on gay rights; an anti-immigration advocate who meets some illegal immigrants and sees them as decent people; they have, as the colloquial expression describes, 'put a face on the problem'¹¹⁴. (A particularly striking example of this is discussed in the conclusion).

One example, related to the exigency of Levinas's work discussed above, may help to explicate this claim. In a book devoted to Levinas's philosophy entitled *The Wisdom of Love*, Alain Finkielkraut

¹¹³ 'Murder, it is true, is a banal fact: one can kill the Other; the ethical exigency is not an ontological necessity.' Levinas, E., *Ethics and Infinity*, p. 87.

¹¹⁴ A compelling account of what Levinas means by the 'Face' can be found in chapter five of Butler, J., *Precarious Life: The Power of Mourning and Violence*, London: Verso, 2004.

writes of the 'swallowed-up face': 'the Nazi horror constitutes precisely the most methodical and demented effort yet made to put an end to this unbearable proximity'¹¹⁵; that is, they sought to e-face the Face, avoid the claim that it makes upon ethical sensibility. In support of this claim he cites the explanation of Franz Stangl (commandant at Sobibor and then Treblinka) given to Gitta Sereny: 'You see, I rarely saw them as individuals. It was always a huge mass. I sometimes stood on the wall and saw them in the tube. But – how can I explain it – they were naked, packed together, being driven with whips'¹¹⁶. And Finkelkraut cites Sereny's conclusion about this: 'It became clear that as soon as the people were in the undressing barracks – that is, as soon as they were naked – they were no longer human beings for him. What he was 'avoiding at any price' was witnessing the transition'¹¹⁷. The human is de-humanised, the face hidden or deformed, in order to enable the operation of the death machine by other humans. 'Thus the SS strips the clothes from those that they are about to kill in order to hide their identity...their method seeks to mask the person as a moral entity by means of physical presence and thus to forestall a confrontation of the executioners with the face'.¹¹⁸ Stangl might have had more difficulty doing his job if he had had to be confronted with the face in the Levinasian sense (and one explanation for the use of gas chambers is the difficulty that many SS men experienced with endless face-to-face executions at gunpoint; for the killing to continue on a large scale, death had to become mechanised and face-less¹¹⁹). One might think also of the famous squeamishness of Himmler at the sight of bloodshed – Himmler, the head of the entire SS and in effect the director of the implementation of the Final Solution.¹²⁰ The evidence in relation to killing by firing squad – the Einsatzgruppen on the Eastern Front, and the important case study by Christopher Browning on Reserve Police Battalion 101, would seem to give some weight to the interdiction of the Face, as when the killing was depersonalised, and the men were drunk, it became easier to carry out the shooting.¹²¹ There was 'sheer physical revulsion'¹²² at the task, and Browning cites no less an authority than Primo Levi as in agreement – horribly enough - with Stangl, that the dehumanisation process was essential to the carrying out of the murder.¹²³

And yet it must be noted that this did not prevent the direct personal killing of approximately 38,000 in the case of Reserve Battalion 101 ('80-90 percent of the men proceeded to kill, though almost all of them - at least initially - were horrified and disgusted by what they were doing')¹²⁴, or more than a million on the Eastern front by the Einsatzgruppen; the Face is not an interdiction, but the appeal of interdiction.¹²⁵ The collapse of standards in a degenerated environment must surely be

¹¹⁵ Finkelkraut, A., *The Wisdom of Love*, Lincoln: University of Nebraska, 1997, p. 108.

¹¹⁶ *The Wisdom of Love*, p. 109.

¹¹⁷ *The Wisdom of Love*, p. 110.

¹¹⁸ *The Wisdom of Love*, p. 111.

¹¹⁹ On this and other related issues see the superb reflections in Clendinnen, I., *Reading the Holocaust*, Melbourne: Text Publishing, 1999, p. 164. See also Simon Wiesenthal's explanation: '[...] face-to-face murder, moreover, required qualified specialists. Time and again the victims would panic, and in such circumstances untrained personnel were often found to be unable to cope with the stress...and a number of intensively employed murderers committed suicide'. Direct violation of the Face was too much to take – something in the Face resists, a prohibition, a 'right' of human dignity manifests itself there. Wiesenthal, S., *Justice Not Vengeance*, New York: Grove Weidenfeld, 1989, p. 58.

¹²⁰ See Roseman, R., *The Villa, The Lake, The Meeting: Wannsee and the Final Solution*, London: The Penguin Press, 2002, pp. 44-45.

¹²¹ Browning, C.R., *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland*, London: Penguin Books, 1998, p. 85.

¹²² *Ordinary Men*, p. 74.

¹²³ *Ordinary Men*, p. 208.

¹²⁴ *Ordinary Men*, p. 184.

¹²⁵ *Ordinary Men*, p. 225.

taken into account as well; it is not only the Face that prohibits, but the *mores* of society, which once removed, enable the unspeakable to occur – this danger is encapsulated in a scene from *Lord of the Flies*:

Roger gathered a handful of stones and began to throw them. Yet there was a space around Henry, perhaps six yards in diameter, into which he dare not throw. Here, invisible yet strong, was the taboo of the old life. Round the squatting child was the protection of parents and school and policemen and law.¹²⁶

Roger later goes on to become the torturer in the quasi-fascist regime that the boys on the island descend into, and will sharpen a stick at both ends with the intent of impaling a boy.¹²⁷ Perhaps he is a natural sadist – but it is not the Face that blocks his path in this progression to evil. And one might consider Arendt's reflections on the Frankfurt Auschwitz Trial, where the actions of the S.S. guards seemed often to depend on whim and arbitrary caprice.¹²⁸ The possibility of goodness that Levinas identifies is by no means assured, or there would not be calamity. While he may be correct to argue that the subject is always already called to responsibility, acting upon that responsibility is entirely another matter.

Thus other ways of understanding the problem of evil need to be kept in mind – thoughtlessness, social standards, and so on – the Face is not a catch-all explanation. Nevertheless, it is often the avoidance, or attempted/successful erasure of the face, that helps to enable barbarism. Conversely, contact with the Face opens the possibility of barbarism being forestalled or made a more difficult task. It is only a possibility, vulnerable and capable of being destroyed; but it remains. It guarantees nothing – and this is in keeping with the notion of ethics as akin more to a poetics than a provable branch of philosophy – but in the 'face' of great horrors and injustice, Levinas sets opposite to (*en face*) these evils his notion of the Face.

Small-g 'goodness', as distinct from Platonic Good or the justice of God (grand capital-G formalised conceptions of goodness) is always a *possible* response. Levinas does not seek to legislate this goodness in Kantian fashion nor suggest that it is the inevitable response by human beings to human suffering (he is at pains in the aforementioned interviews to point out that he has no illusions about the assurance of a 'happy end' in any case¹²⁹), but to point out that acts of goodness happen (the woman giving her last piece of bread to the Nazi soldier, ostensibly her enemy, in Vasily Grossman's *Life and Fate*)¹³⁰, and *can always happen*. Or reversing the example, one might think of the German soldier Anton Schmidt that Arendt lauds in *Eichmann in Jerusalem*, who acts against his own interests at great risk to help Jews, and who was executed as a result.¹³¹ Within human affairs, this simple goodness, spontaneous, gratuitous, perhaps mad and excessive, and born from no belief system or ideology or self-interest, will always remain possible. One might say that Levinas invents no philosophy - he simply reminds us of the eternal recurrence of this possibility. Writing and thinking in the post-World War Two world devoid of illusions about morality and evil, where humanity has

¹²⁶ Golding, W., *Lord of the Flies*, New York: Penguin Books, 2016, p. 73.

¹²⁷ *Lord of the Flies*, p. 244.

¹²⁸ Arendt, H., 'Auschwitz on Trial', in Kohn, J., *Responsibility and Judgment*, New York: Schocken Books, 2003, especially pp. 250-256.

¹²⁹ *Is It Righteous To Be?*, p. 267.

¹³⁰ *Is It Righteous To Be?*, p. 89.

¹³¹ Arendt, H., *Eichmann In Jerusalem: A Report on the Banality of Evil*, London: Penguin Books, pp. 230-231. Schmitt's motivation cannot be known – perhaps he is more Arendtian-Kantian in his ethics but in Levinasian terms, what is essential here is the delimitation of self-interest – of the other being put in first place over oneself, the actualisation of the *après vous*.

become fully cognizant of the depths of depravity that it can sink to, this simple and unpredictable goodness seems to Levinas to represent one of the last refuges of the human spirit. Its power resides precisely in its non-codification as a formal category of Good, a Kantian imperative, a religious principle, a philosophical axiom; it is but a possibility, appearing and disappearing without being able to be predicted or controlled. Speaking of Grossman's magnum opus, he summarises its ethical message: "There is neither God nor the Good, but there is goodness" – which is also my thesis¹³².

But to even begin to discuss it is already the becoming-codified of a philosophical concept. In this trap can be recalled Derrida's critique of Levinas in 'Violence and Metaphysics' – that he cannot escape from the metaphysical language he criticises, and indeed must employ it in that very critique¹³³ - and Levinas's (apparent) response in the coining of the distinction between the ethical 'saying' and the ontological 'said'¹³⁴; which may remind us in part of the principle of circular economic exchange outlined in Derrida's texts like *Given Time* wherein one can never escape into a non-philosophical purity: 'if one does not have to philosophise, one still has to philosophise'¹³⁵. This theme of possibility belongs to this contested area, arguably akin to deconstruction, which may or may not exist as such. Levinas gives an ethics-as-poetics, the *possibility* of doing good.

But the Face is what opens on to the possibility of an ethical response to the other person, which in the context of a politics of asylum, means the response to the asylum-seeker. What the implications are for an *ethos* of political responsibility is explained below with reference to the Rights of Man.

'In the Face, a right is there'

The 'Rights of Man' are - similarly to the term 'possibility' - a recurrent theme in the writings of Levinas which is not often noticed or analysed; he wrote a number of short papers on the subject. In this section, Levinas's conception of those rights will be explored, via particular attention to his essay 'The Rights of Man and the Rights of the Other',¹³⁶ an overlooked text, as well as some others. Following the discussion of Arendt on this topic in the previous chapter, and the explication of Levinas on the 'Face' above, here the significance of Levinasian ethics for the political will be further elaborated.

In the early texts *On Escape* and 'Reflections on the Philosophy of Hitlerism', analysed in Chapter One and above, Levinas identifies a need to account for the physicality of human subjectivity

¹³² *Is It Righteous To Be?*, p. 89. On my reading, Levinas in some ways can be understood as an atheist, whose Judaism is of a strictly exegetical, textual nature; this would seem to be the implication of his argument that theodicy is no longer possible after Auschwitz, and that what 'God' means needs to be reconfigured as a concern for other human beings. (And hence, it is necessary to push back against the tiresome objection that Levinas does little more than engage a spirituality, as though there were not a rigorous phenomenological basis to his work.) See Levinas, E. (trans. Cohen, R.) 'Useless Suffering', in Bernasconi, R., and Wood, D., *The Provocation of Levinas: Rethinking the Other*, London and New York: Routledge, 1988, pp. 156-167.

¹³³ 'Violence and Metaphysics', p. 189: 'Levinas is resigned to betraying his own intentions in his philosophical discourse'.

¹³⁴ In *Otherwise Than Being*, the follow-up to *Totality and Infinity* and arguably the corrected, more-or-less finalised summation of his ethical philosophy. 'Corrected' in that he avoided the metaphysical language that Derrida had taken him to task for.

¹³⁵ 'Violence and Metaphysics', p. 191.

¹³⁶ 'The Rights of Man and the Rights of the Other', pp. 116-125.

- its ontological status as a being that can suffer and die. The Rights of Man and Citizen as grounded in principles of reason, or un-substantiated natural rights, or a disembodied liberalism, did not meet that conception of subjectivity - to their peril, in light of the 'elemental philosophy' of Hitlerism that focuses on ontological humanity, but in order to dominate it.

Therefore what is required is an explanation of the Rights of Man - a set of ideals to which Levinas seemed to subscribe, given the generally affirmative character of his remarks on the subject – which can address this ontological problem, for the 'humanitas' of man, that can account for man as a being in the world, beyond metaphysics, yet avoiding the political disaster of Heidegger's choice for Nazism.¹³⁷ It is this account that is offered in 'The Rights of Man and the Rights of the Other'. And by so doing, Levinas also indicates a way in which the politics of a state can be adjudicated as to their just nature; such a politics would recognise the Rights of Man in the sense he describes. Consequently, there are two moves at work in his essay: 1) a reorientation of how the Rights of Man are to be understood; 2) the implication of this reorientation for a just politics.

The essay begins by outlining how the Rights of Man have been understood until now: 'the right to respect for the *human dignity* of the individual' [emphasis added]¹³⁸, but that exist independent of any conferral – for Levinas, they have always already adhered in the human qua dignified being, as an expression of the alterity inherent in every person: '[...] the belonging of each one to mankind...the non-interchangeable, incomparable and unique.'¹³⁹ This gives them the status of a law above laws 'A law that would be valid independently of all tradition, indifferent to the empirical data of accepted laws.'¹⁴⁰ Such a universal law found its origins in the Enlightenment:

'A rational discipline, born in Europe, could broaden out and be available to all humanity...in the obstinacy that Beings and institutions invest in persevering in their being and their traditions – there came the *a priori* of the rights of man understood as intellectual *a priori*, and becoming in fact the *measure* [emphasis added] of all law.'¹⁴¹

But Levinas makes clear that for him, these rights are not to be understood in the Kantian sense of an 'intellectual *a priori*', and that the will of 'practical reason' may itself be too limited: 'And we might even wonder whether, Kant notwithstanding, that incoercible spontaneity, which bears witness both to the multiplicity of humans and the uniqueness of persons, is not already pathology and sensibility and "ill will".'¹⁴² Such a rational mode of arriving at justice, for Levinas delimits the potential influence of a spontaneous goodness that is prior to justice: 'There also remains the question of determining whether the limitation of rights by justice is not already a way of treating the person as an object by submitting him or her (the unique, the incomparable) to comparison, to thought, to being placed on the famous scales of justice, and thus to calculation'.¹⁴³ Thus even the Categorical Imperative is insufficient to ensure dignity in a Kingdom of Ends: 'The universality of the maxim of action to which the will is assimilated to practical reason may not correspond to the totality of good will'¹⁴⁴ – that is, the 'totality of good will' includes another element, an 'incoercible spontaneity' of

¹³⁷ For Heidegger's discussion of *humanitas* and critique of metaphysical humanism, see 'Letter on Humanism', in Heidegger, M., *Basic Writings*, Oxon: Routledge Classics, 2011.

¹³⁸ 'The Rights of Man and the Rights of the Other', p. 116.

¹³⁹ 'The Rights of Man and the Rights of the Other', p. 117.

¹⁴⁰ 'The Rights of Man and the Rights of the Other', p. 120.

¹⁴¹ 'The Rights of Man and the Rights of the Other', p. 119.

¹⁴² 'The Rights of Man and the Rights of the Other', p. 122.

¹⁴³ 'The Rights of Man and the Rights of the Other', p. 122.

¹⁴⁴ 'The Rights of Man and the Rights of the Other', p. 122.

goodness. As Michael Fagenblat observes, 'Levinas sought to restore a new sense of an unconditional ethical imperative that could not be dismissed as merely abstract, formal, ahistorical, inauthentic, and ontologically inadequate. He did this by developing a phenomenology of the moral imperative that was derived not from the fact of Reason but from the face of the Other.'¹⁴⁵ Thus an imperative remains, but of spontaneous goodness.

How does this goodness translate into a Levinasian vision of the Rights of Man? Via a return to the Face:

Taking as our starting point that uprightness of the face of the other, I once wrote that the face of the other in its precariousness and defenselessness is for me both the temptation to kill and the call for peace, the 'Thou shalt not kill.' Face that already accuses me, is suspicious of me, but already claims and demands me... *The right of man is there*, [emphasis added] in that uprightness of exposure and command and assignation, a right older than any conferring of honor and any merit.¹⁴⁶

Therefore the Rights of Man, understood as a defence of human dignity the locus of which is the Face, effect a kind of transcendence above the every-day working of the law and politics and even justice: 'They are probably, however complex their application to legal phenomena may be, the *measure* of all law and, no doubt, of its ethics.' [emphasis added]¹⁴⁷ The measure of law qua the Rights of Man, however, is that which puts measure into question, and here the an-economic language of Levinas is explicit: in these rights, 'individuals cease being interchangeable like coins'.¹⁴⁸ Such a conception of rights produces an infinite demand which cannot be reduced to an accounting ledger: '...my freedom and my rights, before manifesting themselves in my opposition to the freedom and rights of the other person, will manifest themselves precisely in the form of responsibility, in human fraternity. An inexhaustible responsibility: *for with the other our accounts are never settled*.'¹⁴⁹ [emphasis added] Elsewhere he writes in a moving summary of this logic that the ethical demand is

...a spending without counting, a generosity, goodness, love, obligation toward others. A generosity without recompense, a love unconcerned with reciprocity; duty performed without the "salary" of a good-conscience-for-a-duty-performed, without even the good conscience of being the bad-conscience-of-the-duty-not performed! All duties are incumbent upon me, all rights first due to others...It is an ethics without eudemonism.¹⁵⁰

The reference to 'eudemonism' and the anti-moderate language would seem to confirm this ethical thinking as a form of anti-Aristotleanism. To the extent that *eudaimonia* is to be understood as a good-fatedness that is linked to happiness, Levinas is unconcerned with the effect of happiness engendered by the ethical response – what matters is the response itself, 'a generosity without recompense'.

The question to be answered is: how does this reorientation of The Rights of Man via the Face, and the putting into question of measure as the limit of justice (the invocation of a goodness beyond justice), signify in the political realm? Caygill writes that 'the ethical basis of fraternity is thus freed

¹⁴⁵ *A Covenant of Creatures*, p. xix.

¹⁴⁶ 'Peace and Proximity', in *Alterity and Transcendence*, p. 141.

¹⁴⁷ 'The Rights of Man and the Rights of the Other', p. 116.

¹⁴⁸ 'The Rights of Man and the Rights of the Other', p. 118.

¹⁴⁹ 'The Rights of Man and the Rights of the Other', p. 125.

¹⁵⁰ Levinas, E., 'Vladimir Jankélevitch', in *Outside the Subject*, p. 87.

from membership of a particular community and offers an 'original right', orienting justice prior to the institutions of the state.¹⁵¹ Levinas makes the 'measure' of the state the extent to which it will protect the rights of man, thus reformulating measure as subject to the immeasurable (that is, the relation between the conditioned and the unconditioned). The state is to be held to account and measured by something which is beyond it:

This also means (and it is important that this be emphasised) that the defense of the rights of man corresponds to a vocation *outside* the state, disposing, in a political society, of a kind of extra-territoriality, like that of prophecy in the face of the political powers of the Old Testament, a vigilance totally different from political intelligence, a lucidity not limited to yielding before the formalism of universality, but upholding justice itself in its limitations.¹⁵²

The Rights of Man are the rights of the (Other) Man – a Levinasian inflection emphasising the anoriginal relationality of the inter-subjective, where the other comes to interrupt the subject. The *inter homines esse* that Arendt emphasised does not have the structure of this anoriginal and asymmetric relation, where the subject is responsible for the other without being concerned about the other's responsibility, in a 'sociality prior to all association' (Caygill)¹⁵³. The subject – here transmuted into the state – has a responsibility for that which is beyond it, the transcendence of the other manifest in an 'extra-territoriality': 'The capacity to guarantee that extra-territoriality and that independence defines the liberal state and describes the modality according to which the conjunction of politics and ethics is intrinsically possible.'¹⁵⁴

The state is to be governed by an *ethos* of responsibility for others outside of the state. The '*Fraternité*' of the French Republic is here emphasised (one reason Levinas is reproached with statism in his politics, not to mention his unquestioned use of this gendered term), but a fraternity that extends beyond the state itself to a set of rights 'better than those guaranteed by the state' (that is, a privileging of the rights of 'man' over the 'citizen') but which nevertheless orient the state:

Should not the fraternity that is in the motto of the republic be discerned in the prior non-indifference of one for the other, in that original goodness in which freedom is embedded, and in which the justice of the rights of man takes on an immutable significance and stability, better than those guaranteed by the state?...Their original manifestation as rights of the other person and as duty for an *I*, as my fraternal duty – that is the *phenomenology of the rights of man*.¹⁵⁵ [emphasis added at end]

Consequently, it is evident that Levinas insists upon the importance of the state as the guarantor of human dignity and the Rights of Man in order to give substance to his ethical claims, even as he calls for a recognition of an *ethos* beyond the limits of the state that would guide it – 'goodness as transcendence'.¹⁵⁶ If it is true that he is too statist in his outlook, as Simon Critchley suggests¹⁵⁷ (though the limitations of the critique of statism have already been mentioned in the Introduction and

¹⁵¹ Levinas and the Political, p. 158.

¹⁵² 'The Rights Of Man and the Rights of the Other', p. 123.

¹⁵³ Levinas and the Political, p. 152.

¹⁵⁴ 'The Rights of Man and the Rights of the Other', p. 123.

¹⁵⁵ 'The Rights of Man and the Rights of the Other', p. 125.

¹⁵⁶ Levinas, E., 'The Rights of Man and Good Will', in *Entre-Nous*, p. 158.

¹⁵⁷ Critchley, S., 'Five Problems in Levinas's View of Politics and the Sketch of a Solution to Them', *Political Theory*, Vol. 32, No. 2 (April 2004), p. 173. Here Critchley problematizes the reference to fraternity as that which would emphasise relations between brothers, and therefore recapitulate what is indeed a general problem in the work of Levinas – the secondary status of the female. See also Critchley, S., *The Problem With Levinas*, p. 73.

Chapter One, as the problematic delay of solutions for stateless people in the name of an indeterminate political structure to come), it can hardly be argued that he neglects the state, as has been argued, for example by Miriam Bankovsky: 'Although sympathetic to Levinas's account of ethics, Derrida regrets Levinas's decision to *altogether abandon state-based measures*. [emphasis added] In contrast, Derrida believes that justice takes place both within and beyond the state'.¹⁵⁸ This tremendous misreading of Levinas's position (which is analysed in greater length in Chapter Three) is symptomatic of his reception in a political context, in two ways: one, that it is an obvious misunderstanding of his work; two, in that it constitutes a misguided effort to 'disjoin' him from Derrida (more on this in the chapter to follow). On the one hand he is seen as too statist, on the other he altogether abandons the state. Neither is true. Levinas is a thinker of the political in the sense of the ethics that should inform politics; he has articulated an *ethos* of responsibility which determines whether a state is just: 'It is the responsibility for the other that determines the legitimacy of the state, that is, its justice.'¹⁵⁹ His conception of the political is not limited to the state (this will be explored more in Chapter Four when his writings on 'Cities of Refuge' are analysed) but nor does he abandon the state.¹⁶⁰

What does this mean for a just politics of *hospitality*? In one of the rare uses of that word (which Derrida so astutely interpreted as giving an overall meaning to Levinas's work), he explains:

Metaphysics, or the relation with the other, is accomplished as service and as *hospitality* [emphasis added]. In the measure that the face of the Other relates us with the third party, the metaphysical relation of the I with the Other moves into the form of the We, aspires to a State, institutions, laws, which are the source of universality. But politics left to itself bears a tyranny within itself; it deforms the I and the other who have given rise to it, for its judges them according to universal rules, and thus as in absentia...Metaphysics therefore leads us to the accomplishment of the I as unicity by relation to which the work of the State must be situated, and which it must take as a model.¹⁶¹

The state 'must take as a model' a modality of relating to others which is that of hospitality. Two other Levinasian themes will complete this initial outlay of what a just politics might mean in this context: 'insomnia' and the '*me voici*'. Insomnia is a kind of moral wakefulness, being attentive to the demand of the other who may come calling at any hour (one might think of the watchfulness of the guards at the beginning of *Hamlet* as an image of this attentive insomnia, although their posture was bound up with a certain fearfulness)¹⁶²: 'Already the philosopher Alain taught us to be on guard against everything that in our purportedly lucid civilization comes to us from the "merchants of sleep".'

¹⁵⁸ Bankovsky, M., *Perfecting Justice in Rawls, Habermas and Honneth*, London: Bloomsbury Academic, 2012, p. 11.

¹⁵⁹ 'Apropos of Buber: Some Notes', in *Outside the Subject*, p. 45.

¹⁶⁰ This connection of the State to the vocation of justice becomes potentially problematic when it is combined with a discussion of Israel: 'Justice as the *raison d'être* of the State, that is religion. It presupposes the high science of justice. The State of Israel will be religious because of the intelligence of its great books which it is not free to abandon.' (*Difficult Freedom*, p. 219). As Caygill observes, 'Levinas's words are a warning that the State of Israel is only justified if it obeys the prophetic call for justice' (*Levinas and the Political*, p. 194). Yet Levinas, in maintaining a silence with regard to the actual political actions of Israel, did not hold the State to its messianic promise (Caygill pp. 159-160).

¹⁶¹ *Totality and Infinity*, p. 300. Derrida's interpretation of Levinas in *Adieu* as a thinker of hospitality is discussed in detail in Chapter Three.

¹⁶² I owe this reference to my supervisor Paul Muldoon, with thanks.

Philosophy as insomnia [...].¹⁶³ But the guard is not a guard against, or only against, the other, but rather stands on guard in order to respond to the needs of the other: ‘The Infinite orders to me the neighbor as a face...I find the order in my response itself, which, as a sign given to the neighbor, as a “here I am”, brings me out of invisibility, out of the shadow in which my responsibility could have been evaded.’¹⁶⁴ The political science conception of ‘night-watchman’ is here radically reconfigured – beyond the Nozick-ian demand for the minimal requirements to maintain order in a libertarian state, to an overt responsibility for the rights of (the other) man.¹⁶⁵ The face of the other places a demand upon my responsibility, an ‘order’ to respond ‘here I am’ (*me voici*). Apropos of the refugee, this would mean a politics of solicitude, of active concern for the other person in their vulnerability, in order that politics might be just - an *ethos of responsibility* that would keep watch over the political itself.

Conclusion: From Possibility to Impossibility

All of the themes of this chapter: goodness and responsibility for the other, possibility, disrupting of economy and being, dis-inter-estedness, the face, transcendence and the rights of man are all brought together in an extraordinary passage in another paper on the Rights of Man that Levinas wrote, ‘The Rights of Man and Good Will’, and provides an ideal summation:

Goodness, a childish virtue; but already charity and mercy and responsibility for the other, and already the possibility of sacrifice in which the humanity of man bursts forth, disrupting the general economy of the real and standing in sharp contrast with the perseverance of entities persisting in their being; for a condition in which the other comes before oneself. Dis-inter-estedness of goodness: the other in his demand which is an order, the other as face, the other “who regards me” even when he doesn’t have anything to do with me, the other as fellow man, and always stranger – goodness as transcendence; and I, the one who is held to respond, the irreplaceable, and thus, the chosen and thus truly unique. Goodness for the first one who happens to come along, a right of man. A right of the other man above all. Descartes speaks of generosity. He attaches it both to the “free disposition of {a man’s} will” and to the fact that those who are generous “do not hold anything more important than to do good to other men and to disdain their individual interests”.¹⁶⁶

The next chapter and those that follow takes up the threads developed here; in Derrida’s own work and his reading of Levinas the ethics of hospitality will be analysed. The discussion will pivot from possibility to impossibility in a ‘two-step’: the first step is the engendering of the possibility of an ethical response to the other person via a Levinasian ethics; the second step is the negotiation of this response, in its enormous dimensions (the global population of concern), via a Derridian thinking of the impossible.

¹⁶³ ‘On the Usefulness of Insomnia’, in *Is It Righteous to Be?*, p. 234.

¹⁶⁴ *Otherwise Than Being*, p. 150.

¹⁶⁵ For the libertarian view of the night-watchman, see Nozick, R., *Anarchy, State and Utopia*, Oxford: Blackwell Publishers, 1999, especially Chapter Three. Nozick’s libertarian conclusions, in their delimitation of responsibility for others, needless to say are rather opposed to those of this thesis.

¹⁶⁶ Levinas, E., ‘The Rights of Man and Good Will’, in *Entre Nous*, pp. 157-158. That goodness is a ‘childish virtue’ is a theme that will be returned to in Chapter Six.

CHAPTER THREE – ‘ETHICS IS HOSPITALITY’ – DERRIDA ON LEVINAS

Introduction

The proper names of Emmanuel Levinas and Jacques Derrida will, in the history of philosophy, be forever associated; the crossings of their work were multiple across several decades, wonderfully captured in the figure Levinas selected to describe their philosophical encounter: that of the *chiasmus*.¹ In this chapter, the significance of the chiastic links between them on a particular topic – the ethics of hospitality – is the subject of reflection. While the focus here is on Derrida, he is considered primarily in his thought-relation to Levinas, and especially on the topic of hospitality, with which both were greatly concerned.

The purpose of this chapter is to present an argument about *how* Levinas and Derrida approach ethics. It will be argued that a useful way of understanding their approaches is by reference to *possibility* and *impossibility*: that Levinas, as already seen in Chapter Two, identifies the *possibility* of an ethical response as the potential for the interruption of ‘being’s perseverance in being’ and the advent of the ethical, that this *always can happen* even if it is contrary to the normal course of events; whereas Derrida tries to push ethics towards the *impossible* and the moment of aporia, of undecidability, which he argues is the only place from where one can make a responsible decision (as to be truly responsible, one must make a decision when the answer is not clear; if one simply does what definitely needs to be done, that is programmatic action, and not truly taking responsibility).

The implications of an ethics of possibility-impossibility for hospitality are represented here by a two-step movement between these thinkers, a kind of philosophical *pas de deux*. Not only do they often (not always) move together in an affirmative rhythm (contrary to the view of so many who seek to ‘disjoin’ them – more on this below), but an ethical movement between them can be charted: from Levinasian possibility to Derridian impossibility, from the opening of the possibility of a response to the asylum-seeker via the Face to the negotiation of that response within a potentially limitless context (what are the limits of hospitality?), the testing of the limits of welcome via a deconstructive affirmation of justice and thinking of the impossible.

The *ethos of responsibility* explored in the first two chapters is here further clarified particularly by a careful reading of Derrida’s text ‘A Word of Welcome’, which constitutes the greater part of the book *Adieu to Emmanuel Levinas*. This text analyses the Levinasian corpus precisely as a thinking of the *political* and was the book that introduced the idea already mentioned in previous chapters, that Derrida argues for an understanding of Levinas as fundamentally a thinker of hospitality.²

This chapter commences with an outline of the ‘chiasmus’ connection between these thinkers³; it then moves to an interpretation of Derrida’s reading of Levinas, before considering

¹ Levinas, E., ‘Wholly Otherwise’, in Bernasconi, R., and Critchley, S., *Re-Reading Levinas*, Indianapolis: Indiana University Press, 1991, pp. 6-8. A chiasmus is : a crosswise, diagonal intersection and a rhetorical figure in which terms are reversed; the crossings and reversals between Derrida and Levinas will be explored below.

² Derrida, J., *Adieu to Emmanuel Levinas*, Stanford: Stanford University Press, 1999, p. 21.

³ That Derrida and Levinas are best understood in relation to one another is not universally accepted, as will be discussed further on in the chapter. Aside from their own comments on their proximity, the earliest significant text on this relation was Simon Critchley’s *The Ethics of Deconstruction* (which has significantly influenced the reading presented in this thesis) along with other work by philosophers such as Robert Bernasconi and John

Derrida's own unique work on hospitality, and finally the two-step of possibility and impossibility as a uniquely important means of understanding their work on hospitality. The continued deepening of the meaning of an *ethos of responsibility* in relation to the politics of asylum (and an emphasis on the Rights of 'Man' rather than the 'Citizen'), and the understanding of these thinkers as to a great extent an-economic in their approach, orients the readings pursued here.

The Chiasmus

That Derrida and Levinas should be read together on the topic of hospitality; that their work moved between them in an affirmative affinity, though not without critical remarks; that it is nonsensical to attempt to 'disjoin' them – all these statements can be easily established' but it is *necessary* to establish them, in light of some recent attempts to achieve such a disjoining, and especially at efforts to marginalise Levinas (which are often based on profound mis-readings of him).

In a recent biography by Benoît Peeters, some of Derrida's letters to Levinas are quoted. They include the following remarks:

[...] as far as I'm concerned, in everything I do your thinking is in a certain way present.⁴

[...] we dwell *together* in, I will not say the same, but a strangely refined X, an enigmatic affinity. When all the landmarks disappear (cultural, historical, philosophical, institutional), when everything is 'deconstructed and desolate' by war, this austere complicity is – for me – vital, the last sign of life.⁵

These remarks recall an even stronger statement Derrida once made in an interview:

Faced with a thinking like that of Levinas, I never have an objection. I am ready to subscribe to everything that he says. That does not mean that I think the same thing in the same way, but in this respect the differences are very difficult to determine; in this case, what do differences of idiom, language or writing mean? I tried to pose a certain number of questions to Levinas while reading him, where it may have been a question of his relation to the Greek *logos*, of his strategy, or of his thinking with respect to femininity for example, but what happens there *is not of the order of disagreement or distance*.⁶ [emphasis added]

Derrida in the correspondence cited, is referring to remarks made in Levinas's only text devoted entirely to Derrida – 'Wholly Otherwise', where he likens their association to the crossed

Caputo. However Richard Cohen, an important commentator on Levinas, does not accept the importance of Derrida's reading of Levinas, and indeed views it as a deformation of Levinasian ethics, and his arguments are not without merit in seeing the import of Levinas's seeking to go beyond metaphysical language. See Cohen, R.A., 'Derrida's (Mal)reading of Levinas', in *Elevations: The Height of the Good in Rosenzweig and Levinas*, Chicago: University of Chicago Press, 1994.

⁴ Peeters, B., *Derrida: A Biography*, Cambridge: Polity Press, 2013, p. 174.

⁵ *Derrida: A Biography*, p. 254.

⁶ Quoted in Critchley, S., *The Ethics of Deconstruction: Derrida and Levinas*, 2nd Edition, Edinburgh: Edinburgh University Press, 1999, pp. 9-10. Simon Critchley was one of the first interpreters of the importance of this link, and his work in that book and in others underlies much of the work in this chapter – his influence is felt (almost) everywhere here.

figure of the chiasmus, but also, more enigmatically, compares the effect of Derridian deconstruction to the exodus of 1940 in France, where after the flood of people nothing remained as it had been.⁷ This reference to the Second World War, while an image of deconstruction at work, might also serve to recall the common experience of these thinkers as members of a generation directly affected by the war – Levinas interned in a prison camp, Derrida thrown out of school in Algeria by a Vichy decree against Jewish students and teachers.

Both thinkers are deeply marked by their awareness of the Shoah, and the need for a philosophical response to it – explicit in Levinas, but perhaps more troubled and uncertain, less direct in Derrida:

The thought of the incineration of the holocaust, of cinders, runs through all my texts...What is the thought of the trace, in fact, without which there would be no deconstruction?... The thought of the trace...is a thought about cinders and the advent of an event, a date, a memory. But I have no wish to demonstrate this here, the more so, since, in effect, "Auschwitz" has obsessed everything that I have ever been able to think, a fact that is not especially original. Least of all does it prove I have ever had anything original or certain to say about it.⁸

References to the Shoah are often oblique in Derrida's writings – in a text co-written with Catherine Malabou about his travels he writes, 'I went to Auschwitz but won't talk about that here...'.⁹ It is as though it is a subject he can only approach elliptically, and there are indeed few texts by him that broach the subject directly.¹⁰ The small book *Cinders* collects the references to this word in his oeuvre, set *en face* to a page containing a polylogue also on cinders, with pages in both the quotation and the polylogue progressions left blank, apparent testimony to the difficulty of speaking on this subject: 'It is impossible for what is written not to be disclosed. That is the reason why I have never written anything about these things...'¹¹ Disclosure, that is, direct address to the topic, might represent too violent, too direct an approach to such a difficult subject. This silence or reticence, the trailing off into deliberate ellipsis - rather than quietude, this evinces an attitude of responsibility in the face of a subject that is difficult to come to terms with.

Derrida shares Levinas's concern for the implications for philosophy that the Shoah represents. In an interview with *Yad Vashem* he notes:

Obviously, trying to think the Holocaust is a difficult task, which assumes at least asking oneself how Western culture, dominated by what is called philosophy, by

⁷ 'Wholly Otherwise', p. 4: 'When I read him [Derrida], I always recall the exodus of 1940.'

⁸ Quoted in Eaglestone, R., 'Derrida and the Holocaust: a commentary on the philosophy of cinders', *Angelaki: Journal of the Theoretical Humanities*, Vol. 7, No. 2, August 2002, p. 27.

⁹ Malabou, C., and Derrida, J., *Counterpath: Travelling with Jacques Derrida*, Stanford: Stanford University Press, 2004, p. 237.

¹⁰ Derrida does engage at length with Heidegger's Nazism in Derrida, J., *Of Spirit: Heidegger and the Question*, Chicago: University of Chicago Press, 1987. He makes remarks concerning the Shoah in the context of a discussion of Walter Benjamin in part two of 'Force of Law: the Mystical Foundation of Authority, in Derrida, J., *Acts of Religion*, New York: Routledge, 2002, pp. 258-298. This is discussed further in Chapter Six of this thesis. But these texts are among his few extended treatments on this theme which was so decisive for much of his generation, and the one that preceded it (Levinas, for example, was 24 years older than Derrida).

¹¹ Derrida, J., (trans. Lukacher, N., Introduced by Wolfe, C.) *Cinders*, Minneapolis: University of Minnesota Press, 2014, p. 38.

Judeo-Christian traditions, etc., could have been made possible, nor not have made impossible, an event such as the one named Auschwitz or the Shoah.¹²

Not only does a profound concern about the Shoah mark an affinity of concern with Levinas, but for Derrida this also has implications for thinking hospitality:

When I speak... of hospitality, it is always with reference to this event [the Shoah], whose very uniqueness is problematic.¹³

This connection of the theme of the Shoah with hospitality is also noted by Gideon Ofrat concerning Derrida:

One way or another, the spirit of the Holocaust or a holocaust hovers over Jacques Derrida's writings: the refugees who seek hospitality in his various books; the ghosts that frequent his thoughts; and above all the verdict of "extermination" that awaits all redemptive metaphysical light – all prove and assure an intimate relationship between philosophy and that great trauma of the twentieth century.¹⁴

The calamity of the Shoah is in part related to the calamity of displaced persons at the time of and after the Second World War, in producing a large population of Jewish persons seeking refuge. Thus the thinking of hospitality in both Levinas and Derrida, can be traced in large part back not only to the war and the Shoah but the attendant implications for refugees. They are united by these concerns, even if their experience and their thinking approach to those concerns differ.

Both thinkers can be said to be motivated by ethical concerns, and questions of justice. In one of the few definitions he ever risked of deconstruction, where as a subject he assigned it a determinative predicate, Derrida wrote: 'deconstruction is justice'. That is, it represents the movement of or concern for justice, and is animated by this concern. Levinas's own concern with and understanding of justice is also a source of admiration for him:

Justice, if it has to do with the other, with the infinite distance of the other, is always unequal to the other, is always incalculable. You cannot calculate justice. Levinas says somewhere that the definition of justice--which is very minimal but which I love, which I think is really rigorous - is that justice is the relation to the other. That is all. Once you relate to the other as the other, then something incalculable comes on the scene, something which cannot be reduced to the law or to history.¹⁵

Not only their view of justice as the 'relation to the other' (which in Levinas's case, as has been seen, relates to the Face), but borne out of the an-economic relation to the other – the 'incalculable'- is also fundamental to understanding their ethical proximity. As has already commenced and will

¹² 'An Interview with Professor Jacques Derrida', Shoah Resource Centre. URL:

http://www.yadvashem.org/odot_pdf/Microsoft%20Word%20-%203851.pdf, p. 2. retrieved 25/8/2016.

¹³ 'An Interview with Professor Jacques Derrida', p. 4. On this point, see also his remarks in *Of Spirit*, pp. 109-110: 'Nazism was not born in the desert...it would have done so in the shadow of big trees...In their bushy taxonomy, they would bear the names of religions, philosophies, political regimes, economic structures, religious or academic institutions. In short, what is just as confusedly called culture, or the world of spirit.'

¹⁴ Ofrat, G., (trans. Kidron, P.) *The Jewish Derrida*, Syracuse New York: Syracuse University Press, 2001, p. 152. Quoted in Eaglestone, R., 'Derrida and the Holocaust', p. 28.

¹⁵ Caputo, J. (ed.), *Deconstruction in a Nutshell: A Conversation With Jacques Derrida*, New York: Fordham University Press, 1997, p. 17.

become apparent throughout the course of these chapters, the emphasis on an-economic language and conceptuality in both thinkers is significant.

This is not to suggest that they always agreed; particularly in the case of Derrida, he manifested a number of questions and even critical reservations with regard to Levinas: 'Even if I owe a great deal to Heidegger, as do many others, he inspired me from the start with an intense political disquiet. This was also the case, in a completely different way, with Levinas'¹⁶ - a reference to Levinas's views on Israel; one of his only known forays into politics is his comments on the Jewish state, in particular his infamous defence of the massacres in the Shabra and Chatila camps in 1982 which the IDF was alleged to have enabled (his remark was briefly discussed in the previous chapter).¹⁷ (This is oft-raised in objection to Levinas, for the remark that 'in alterity we can find an enemy' - this from the philosopher of ethical otherness, of respect for others! And yet the context is what to do when one finds oneself or another under attack: 'But if your neighbour attacks another neighbour or treats him unjustly, what can you do? Then alterity takes on another character, in alterity we can find an enemy, or at least then we are faced with the problem of knowing who is right and who is wrong, who is just and who is unjust. There are people who are wrong.'¹⁸ This response is entirely in keeping with Levinas's notion of the Third and the birth of justice - that is, the need to weigh and choose between competing interests. His remarks also begin the interview with a call for ethical responsibility, and for the delimitation of any exempt status for Israel in being responsible. And what does he say to close the interview?: 'A person is more holy than a land, even a hold land, since, faced with an affront made to a person, this holy land appears in its nakedness to be but stone and wood.'¹⁹ Thus, while his remark can disturb and should not be excused, it has often not been properly understood or contextualised.

There is much more that can be said about the links between these thinkers, but they would take the present argument beyond its proper remit. However two especial themes have been emphasised here: one, a preoccupation with certain legacies of the war - the calamity of the Shoah and the plight of stateless persons; two, a commitment to an-economic thinking of the ethical.

It is these themes, among others - not to mention the direct statements of agreement and affinity quoted above - that are missed by certain thinkers who seek to 'disjoin' Levinas from Derrida, usually siding with the latter but against the former. The work of Miriam Bankovsky was mentioned in Chapter Two in this context, where Bankovsky mistakenly regards Levinas as an a-political, non-statist thinker. Her remarks come in the context of an interesting discussion overall concerning justice from a 'deconstructive perspective', but which regards Levinas's ethics as a 'rejection of liberal-democratic justice'²⁰ (!) - recall from Chapter Two that for Simon Critchley, Levinas's problem in part is precisely that he is too tied to the model of the liberal state. Bankovsky's fundamental issue with Levinas seems to be the non-reciprocal, non-impartial²¹ nature of his ethics - for him, the responsibility of the other for the subject is not the subject's concern. Bankovsky is interested in articulating 'general public principles of justice'²² where it is necessary to 'justify certain principles and

¹⁶ Derrida, J., and Roudinesco, E., *For What Tomorrow...A Dialogue*, Stanford: Stanford University Press, 2004, pp. 14-15.

¹⁷ See the discussion at the beginning of Caygill, H., *Levinas and the Political*, London: Routledge, 2002, p. 1.

¹⁸ The full interview is available as 'Ethics and Politics' in Hand, S. (ed.), *The Levinas Reader*, Oxford: Basil Blackwell, 1989, pp. 289-297.

¹⁹ 'Ethics and Politics', p. 297.

²⁰ Bankovsky, M., *Perfecting Justice in Rawls, Habermas and Honneth*, London: Bloomsbury, 2012, p. 6.

²¹ See especially Chapter One of *Perfecting Justice in Rawls, Habermas and Honneth*.

²² *Perfecting Justice*, p. 9.

procedures over others’;²³ if Levinas cannot distinguish ‘between better and worse forms of failure’²⁴ to attain justice, then his thinking of justice is no help. For Bankovsky, Derrida ‘gets the conceptual balance right, demonstrating that the ethical relation is facilitated when one risks engaging with state-based justice.’²⁵ To reaffirm that Levinas also holds this position, the quotation from Chapter Two can be repeated: ‘It is the responsibility for the other that determines the legitimacy of the state, that is, its justice.’²⁶ One can ‘risk engaging’ with the state to the extent that it takes responsibility for the other. In no sense does he call for a charity or understanding of justice totally removed from state-based action.

Probably the most extended attempt to separate them comes in Martin Hägglund’s book *Radical Atheism: Derrida and the Time of Life*, in a chapter titled ‘Arche-Violence: Derrida and Levinas’ (an earlier version of which appeared in *Diacritics* under a different title: ‘the Necessity of Discrimination: Disjoining Derrida and Levinas’).²⁷ Hägglund summarises his project in the Introduction as follows: ‘Refuting the notion that there was an ethical or religious “turn” in Derrida’s thinking, I demonstrated that a radical atheism informs his writing from beginning to end.’²⁸ This is a very significant claim, because it flies in the face of the work of many others who note this ‘turn’, perhaps especially Simon Critchley’s arguments in *The Ethics of Deconstruction*. To make his argument, Hägglund must show that Derrida pursued a consistent line throughout his career on ‘time and violence’, *pace* Critchley, Robert Bernasconi and Drucilla Cornell (and others).²⁹ The notion of temporality and the trace orient his reading: ‘the structure of the trace follows from the constitution of time, which makes it impossible for anything to be present *in itself*.’³⁰ This thread of argumentation – and his remarks on an originary Derridian violence, as distinct from an originary Levinasian peace, are highly persuasive and constitute a very strong reading of Derrida’s oeuvre; in positioning Derrida against Levinas, he follows the former’s very convincing deconstruction of the latter in ‘Violence and Metaphysics’ (which Hägglund leans on heavily for his interpretation).

Radical Athiesm has been critiqued at length, in relation to differing aspects of the understanding of deconstruction it presents.³¹ Here the purpose of critique is not to condemn Hägglund’s book *tout court*, but rather, by reading what he says against the texts of Derrida, to show why his understanding of Derrida’s relation to Levinas is misguided, especially as their thinking relates to hospitality.

Hägglund’s arguments on many points are perplexing. He refers negatively to ‘the numerous attempts to forge an alliance between Derrida and Levinas’ – as though they had not already done this themselves, as evidenced by the above quotations and the numerous texts they devoted to each other – as though it required ‘forging’ by other parties.³² He develops a reading of temporality which he argues governs the entirety of Derrida’s oeuvre, which thus marginalises every other means of

²³ *Perfecting Justice*, p. 10.

²⁴ *Perfecting Justice*, p. 11.

²⁵ *Perfecting Justice*, p. 11.

²⁶ ‘Apropos of Buber: Some Notes’, in Levinas, E., *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 45. The section on the Rights of Man in Chapter Two can be considered as an extended rebuttal to Bankovsky’s political claim concerning Levinas.

²⁷ Hägglund, M., *Radical Athiesm: Derrida and the Time of Life*, Stanford: Stanford University Press, 2008.

²⁸ *Radical Atheism*, p. 1.

²⁹ *Radical Atheism*, pp. 10-11.

³⁰ *Radical Athiesm*, p. 1.

³¹ See the special journal issue ‘Living On: Of Martin Hägglund’, *CR: The New Centennial Review*, Volume 9, Number 1, Spring 2009.

³² *Radical Atheism*, p. 95.

understanding the links between these two thinkers – such as those suggested above; as Danielle Sands notes in a perceptive review of the book, ‘His [Hägglund’s] dismissal of other critical positions and urge to ‘salvage’ Derrida incline towards the elevation of his own argument as definitive or even ‘sovereign’ which not only conflicts with the deconstructive logic he propounds but also tends to suppress the tensions and contradictions which are implicit in Derrida’s work.’³³ What is perhaps most strange is his determination to insist that Derrida is not an ethical thinker – the same thinker who declared that ‘deconstruction is justice’ (here quoting Hägglund at length):

Neither justice nor hospitality can therefore be understood as an ethical ideal. If Derrida is easily misunderstood on this point, it is because he uses a “positively” valorized term (“hospitality”, “justice”) to analyse a condition that just as well can be described with a “negatively” valorized term (“violent exposition”, “irreducible discrimination”). This is not a valid excuse for those who want to turn Derrida into an ethical philosopher.

On the topic of deconstruction and hospitality, Hägglund asserts the following:

Nothing can establish a priori that it is better to be more hospitable than to be less hospitable (or vice versa). More openness to the other may entail more openness to “bad” events, and less openness to the other may entail less openness to “good” events. Consequently, the law of unconditional hospitality does not provide a rule or a norm for how one should act in relation to the other, but requires one to make precarious decisions from time to time. The only unconditional law of hospitality is that one will have been forced to deal with unforeseeable events.³⁴

Here all traces of ethics are deliberately washed out – there is, for Hägglund, no affirmative character to a deconstructive understanding of unconditional hospitality. Compare this to Derrida’s own remarks in *Of Hospitality*, which introduce his thinking of the unconditional hospitality to which Hägglund refers:

Let us say yes to *who or what turns up*, before any determination, before any anticipation, before any identification, whether or not it has to do with a foreigner, an immigrant, an invited guest, or an unexpected visitor, whether or not the new arrival is the citizen of another country, a human, animal, or divine creature, a living or dead thing, male or female.³⁵

The affirmative concatenation of ethics with justice and hospitality (‘ethics is hospitality’) under the sign of a ‘yes’ that governs the deconstructive approach, cannot be eluded. Hägglund neglects this. He neglects the statements of these two thinkers on their proximity. He neglects the way in which the war gathers these thinkers together – from Levinas’s life-long combat with Heidegger the former Nazi and personal experience in a prisoner’s camp, to Derrida’s desire to have been a Resistant (he even strongly affirms deconstruction as a modality of ‘Resistance’).³⁶ He neglects the shared language of an-economic thought that prevails across the work of both thinkers. He neglects or barely mentions almost all the texts that passed between them – ‘Wholly Otherwise’, ‘At this Very

³³ Sands, D., ‘Review Article – Martin Hägglund, *Radical Atheism: Derrida and the Time of Life*’, in *Parrhesia*, Number 6, 2009, p. 75.

³⁴ *Radical Atheism*, p. 105.

³⁵ Derrida, J., ‘Step of Hospitality’, in *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, Stanford: Stanford University Press, 2000, p. 77.

³⁶ Expressed in ‘What Does it Mean to be a French Philosopher Today?’, *Paper Machine*, Stanford: Stanford University Press, 2005, p. 115.

Moment in the Work Here I Am', *Adieu*, with the solitary exception of 'Violence and Metaphysics', which serves his purpose. He neglects the obvious emphasis on 'questions of responsibility' (the overarching term for Derrida's seminars spanning fourteen years) in the latter part of Derrida's career – if not a turn then certainly an intensification of concern with ethics (and what is a question of responsibility if not a question of ethics, a responding-to or answering-to of some other?). He acknowledges (because it is impossible to avoid) the themes of 'hospitality' and 'justice' in Derrida's work, while side-lining 'ethics', neglecting Derrida's statement that 'ethics is hospitality'. This latter neglect is the most curious of all – why the desire to reduce Derrida's work to that which either is concerned with the best or the worst, with no way to decide in each case? And why then end his chapter on a question of what makes the ground of responsibility (that is, ethics) possible – is responsibility to be maintained, while ethics is dispensed with? What would this even mean?³⁷

As Derek Attridge notes in very perceptive reading of Hägglund's book (and who draws similar conclusions to those presented here): 'When Hägglund states that "Nothing can establish a priori that it is better to be more hospitable than to be less hospitable (or vice versa)...he is referring to the calculation of outcomes. But *ethics, for Derrida (as for Levinas), is not a matter of calculation*'.³⁸ [emphasis added] More or less hospitable are not equivalent gestures in Derrida: 'Derrida's tone here and in a hundred other places indicates that this risk-taking, affirmative attitude is preferable to its opposite', an ethos which 'was not divorced, as many who knew him can testify, from his own practice of living.'³⁹

The philosophical relationship between Derrida and Levinas is highly complex and philosophically dense and difficult. The text 'At this very moment in this work here I am'⁴⁰ shows this clearly, in the multiplicity of voices that Derrida employs, so that one is not sure who is saying what, and to who, and the oscillation between agreement and disagreement, and the highly enigmatic ending, all in capital letters, disjointed (though not disjoined) and more poetry than philosophy, is a text whose meaning is impossible to finally determine; the experience of the aporia, of bottomless doubt as to what is finally meant, is enacted in the text by Derrida. This descent into the undecidable, the blurring of borders between speaker and addressee, between poetico-literary expression and philosophical writing, should underline the care and rigour that is required in assessing the interactions of Levinas and Derrida. One cannot simply 'dis-join' them; that is a highly facile way of reading what is a very complex set of texts. Nor, on the flip-side, can one simply conflate them; however this other extreme is not often if ever in evidence, even among those writers who see positive links between them (Critchley, Bernasconi et al). No-one conflates them – except maybe Derrida himself!, in the interview where he is 'ready to subscribe to everything' in Levinas – but in general he, and the commentators who consider their works, are careful to point out their differences. But the reverse gesture/error, of 'dis-joining' them, in the face of all declared points of agreement and strong resonances between their thinking – this error *is* made.

Bankovsky and Hägglund are two examples of such erroneous interpretations; they could be multiplied.⁴¹ The reason why they are considered here is that the mis-readings of Levinas and the

³⁷ *Radical Atheism*, p. 106.

³⁸ 'Radical Atheism and Unconditional Responsibility', in Attridge, D., *Reading and Responsibility: Deconstruction's Traces*, Edinburgh: Edinburgh University Press, 2010, p. 147.

³⁹ 'Radical Atheism and Unconditional Responsibility', p. 148.

⁴⁰ Derrida, J., 'At this very moment in this work here I am', in *Re-Reading Levinas*, pp. 11-48.

⁴¹ Slavoj Žižek in several texts, takes Levinas to task for his conception of otherness, preferring Lacan and the idea of preserving the inhuman 'monstrosity' of the other – that is, their strange, unrevealed otherness which is not reducible to a positive ethical signification. It might be asked what the implications of this view are in terms

chiasmus links between Levinas and Derrida, pile up to the extent that reception of – Levinas in particular - in political theory is endangered by misunderstanding. It is necessary to clarify how this philosophical encounter can or should be understood.

In all of his texts on Levinas, Derrida notes both his affirmations and admiration towards him, and at the same time his reservations.⁴² For his part, Levinas also made subtle rejoinders to Derrida – asking if deconstruction is not a discourse ‘...in the course of which, amidst the shaking of the foundations of truth...seems to offer an ultimate refuge to presence’.⁴³ Levinas then immediately suggests a way out – that Derrida (falling into the same trap he charges Levinas with in ‘Violence and Metaphysics’, that of recourse to predicative propositions to articulate ideas beyond the limits of a metaphysics of presence) is really engaging in what Levinas calls the ‘Saying and the Said’ - the distance between the affirmative character of language in its intentionality (the Saying), and the ontological content of that language when it enters into concrete discourse (the Said).⁴⁴ Levinas also proffers a rejoinder to Derrida’s view in ‘Violence and Metaphysics’ that ‘Not to philosophise is still to philosophise’ – to which Levinas replies, ‘Philosophical discourse must therefore be able to embrace God – of whom the Bible speaks – if, that is, this God has a meaning...And it is not by accident that the history of Western philosophy has been a destruction of transcendence.’⁴⁵ Part of his project is a defence of a certain transcendence, that is, the Infinity which appears in the other person that is not reducible to philosophical signification (hence the undoing of philosophical ethical propositions in the movement between the Saying and the Said – a kind of un-stitching of metaphysical statements to reveal the interstices of the ethical in between).

What is demonstrated by the doubling of fidelity and critical questioning in the responses of each thinker to the other, is itself a mode of ethical responsibility – where to really be faithful to the other party is to be in part unfaithful – rather than taking umbrage, they take stock of their respective positions, and continue the affirmative-critical dialogue (one might contrast this play of affirmation and criticism with that of other thinkers who were on the receiving end of a deconstructive reading – Foucault for example).⁴⁶ There are important differences to be identified between these thinkers – yet there is also an undeniable proximity, affection and very often a general agreement on questions of ethics and justice and hospitality – an exploration of which in political terms is now considered.

of political responsibility, if one is to insist upon the potential monstrousness of asylum-seekers, in their moment of vulnerability. See Zizek, S., Santner, E.L., and Reinhard, K., *The Neighbor: Three Inquiries in Political Theology*, Chicago: University of Chicago Press, 2013. See also Zizek, S., *The Parallax View*, Cambridge: MIT Press, 2006, p. 11.

⁴² These reservations, and this affirmation, are nicely summarized in an oft-overlooked interview from *Le Magazine Littéraire*, ‘Derrida avec Lévinas : « entre lui et moi dans l'affection et la confiance partagée »’, No. 419, Mardi 1 Avril 2003. Given its date, and the fact that Derrida died in 2004, this must represent one of or even the very last word by Derrida on his relation with Levinas – one of ‘affection and shared confidence/trust’.

⁴³ Levinas, E., ‘Wholly Otherwise’, in Bernasconi, R., and Critchley, S. (eds.) *Re-Reading Levinas*, Indianapolis: Indiana University Press, 1991. p. 5.

⁴⁴ ‘Wholly Otherwise’, p. 5.

⁴⁵ Levinas, E., ‘God and Philosophy’, in *Of God Who Comes to Mind*, Stanford: Stanford University Press, 1998, pp. 55-56.

⁴⁶ Famously or infamously, Foucault referred dismissively to deconstruction as a ‘little pedagogy’, in response to Derrida’s deconstruction of his work in the latter’s essay ‘Cogito and the History of Madness’. See the Introduction to Foucault, M., *The History of Madness*, London: Routledge, 2006, p. xxiv.

An Immense Treatise of Hospitality: Derrida reading Levinas

How does Derrida understand Levinas as a thinker of the political, particularly in relation to hospitality? The most extended treatment of these themes is to be found in the second section of *Adieu to Emmanuel Levinas*, appropriately entitled 'A Word of Welcome'. Here two against-the-grain readings of Levinas are explored: firstly, the possibility that he can be thought in explicitly political terms – that his thinking has significant implications for political philosophy.; and secondly, that he is a thinker concerned greatly with hospitality. What needs to be assessed in the present close-reading of *Adieu* is whether Levinas founds or informs a politics, especially a statist politics:

...relationships between an *ethics* of hospitality (an *ethics as* hospitality) and a *law* or a *politics* of hospitality, for example, in the tradition of what Kant calls the conditions of universal hospitality in *cosmopolitical law*: "with a view to perpetual peace."

The classical form of this question would perhaps be found in the figure of a founding or legitimating foundation. It might be asked, for example, whether the ethics of hospitality that we will try to analyse in Levinas's thought would be able to found a law and a politics, beyond the familial dwelling, with a society, nation, State or Nation-State.⁴⁷

Derrida remarks in relation to Levinas and hospitality:

Has anyone noticed? Although the word is neither frequently used nor emphasized within it, *Totality and Infinity* bequeaths to us an immense treatise of hospitality. This is borne out less by the occurrences of the word "hospitality", which are, in fact, rather rare, than by the links and discursive logic that lead to this vocabulary of hospitality. In the concluding pages, for example, hospitality becomes the very name of what opens itself to the face, or more precisely, what "welcomes" it. The face always lends itself to a welcome, and the welcome welcomes only a face, the face that should be our theme today, but that, as we know from Levinas, must elude all thematization. This irreducibility to a theme, this exceeding of all thematizing formalization or description, is precisely what the face has in common with hospitality.⁴⁸

How is Levinas's work to be understood as a thinking of the politics of hospitality, and what consequences for political theory – and praxis – might it have, if any? Derrida here picks up on a theme central for the present argument – although he does not give it extended treatment – what Levinas interjects into the political is the '*possibility of welcoming*' [Derrida's emphasis], which is a 'discreet but clear contestation of Heidegger, indeed of the central motif of gathering oneself, of recollection [*recueillement*], or of gathering together'.⁴⁹ This engendering of a possibility "to welcome the Other is to put in question my freedom."⁵⁰

But the infinite possibility of welcoming a singular other is put in question by the 'illeity of the third' – another for whom the moral agent is responsible (without the responsibility of the other being a question for that agent). It becomes necessary, then, to weigh and decide between the two or more singularities that face one – this is the moment of justice, of weighing and calculation. That is to say,

⁴⁷ 'A Word of Welcome', pp. 19-20.

⁴⁸ 'A Word of Welcome', p. 21.

⁴⁹ 'A Word of Welcome', p. 28.

⁵⁰ 'A Word of Welcome', p. 29, quoting from *Totality and Infinity*, p. 85.

that calculation as a mode of justice is a 'necessary' – Levinas's word - component of Levinasian ethics – the hyper-ethical responsibility enters into a mode of justice as weighing and decision, taking ethics 'before a court of justice'.⁵¹ In sum, it is necessary to articulate '[...] the relationships between an *ethics* of hospitality (an ethics *as* hospitality) and a *law* or a *politics* of hospitality'.⁵²

'The question, then, is the third', that is, 'the birth of the question as question, for the face to face is immediately suspended, interrupted without being interrupted, as face to face, as the dual of two singularities.'⁵³ This progression of commentary in relation to Levinas is remarkably similar to Derrida's own view put in *Of Hospitality*, where the 'Foreigner Question' is in focus for half the book:

Isn't the question of the foreigner [*l'étranger*] a foreigner's question?...As though the foreigner were being-in-question, the very question of being-in-question, the question-being or being-in-question of the question...One thinks of the situation of the third person and of justice, which Levinas analyses as "the birth of the question".⁵⁴

(Isn't Derrida's approach to questions of hospitality here so determined by that of Levinas as to be *overdetermined*, to be in rigorously close proximity, *contra* certain other readings?) The birth of the question, as pertains to the foreigner or stranger, the arrivant qua asylum-seeker or refugee, is a question of justice. But who is the question for, who is the foreigner putting into question? The state and its citizens, "the dignity of the citizen", where, however, a sharp distinction must remain between the ethical subject and the civic one.⁵⁵ That is to say that dignity pertains not only to the claims made by the foreigner, but to the status of the citizen, whose dignity is realised in the affirmative response to the question. But what does the distinction between the ethical and civic subject mean? The answer is given in footnote 20 of the same page, where Levinas is cited in his paper 'Useless Suffering':

In its ethical position, the self is distinct from the citizen born of the City, and from the individual who precedes all order in his natural egoism, from whom political philosophy, since Hobbes, tries to derive – or succeeds in deriving – the social order of the City.⁵⁶

The ethical subject is to be distinguished from the citizen, to the extent that citizenship persists in an 'egoism' of self-concern. Hobbes can be seen as another target of Levinas (in a concatenation that could include Aristotle-Spinoza-Hobbes-Hegel-Heidegger and others)⁵⁷ in his conception of the human being as a being which is motivated primarily by self-concern. While this is so often true – and while Hobbes' work offers precisely a solution to the war of all against all and thus of violence and harm to others – Levinas is indicating the possibility of a different conception of the

⁵¹ 'A Word of Welcome', p. 30. The theme of courts and trials, of justice-as-calculation, will be more fully elaborated in Chapter Six.

⁵² 'A Word of Welcome', p. 19.

⁵³ 'A Word of Welcome', p. 31.

⁵⁴ 'Foreigner Question', in *Of Hospitality*, p. 3 and 5 (p. 4 relates to an *en face* text).

⁵⁵ 'A Word of Welcome', p. 32.

⁵⁶ Levinas, E., (trans. Cohen, R.) 'Useless Suffering', in Bernasconi, R., and Wood, D., *The Provocation of Levinas: Rethinking the Other*, New York: Routledge, 1988, p. 165.

⁵⁷ This seeming war of all against Levinas (!) eventuates because what is intended in the ethics of Levinas is a radical reconception of the philosophical – from the love of wisdom to the wisdom of love - where the locus of the subject is changed from the primacy of the ego to concern for the other person. This does *prima facie* run counter to the Spinozan *conatus essendi*, to Aristotelean *Eudaimonia*, Heideggerian gathering and the self-concern of Being where *mit-sein* does not offer a strong ethical signification, to Hegelian 'totality' or Hobbesian pessimism; all these philosophical axioms that make totalizing or seemingly self-interested gestures. Whether Levinas is right in every case (which can certainly be doubted), such is the orientation of his work.

subject, one posited as ethical responsibility, which *can* always be the case, even if it is in no sense guaranteed.

This also underlines the important difference between Levinas and Arendt: the ethically responsible subject – as well as the stateless person – are not to be understood as ethical subjects by delimiting responsibility or rights to civic membership – they are always already caught up in the ethical, prior to the construction of the ‘social order of the city’. The individual is interrupted and called into question by the other, who places an infinite demand upon them; if this is true – if ethics is prior to ontology – and the individual is that from which the city is ‘derived’, then the city too is always already interrupted by the claims of others to its responsibility, in that the selves from which it is composed are not egoistic monads, but subjects held responsible to a demand from other persons, prior to the formal arrangements of Arendtian promise-making (which nevertheless needs to follow in order to secure the ethical demand within the space of the political). This would be the transmutation of the Levinasian responsible subject into the responsible city, via reorientation of what subjectivity means, and inform the ethos of responsibility to which the city is held accountable – the site of the working out of justice with regards to strangers – more on this in Chapter Six.

Levinas observes that ‘The subject is a host’. Derrida comments:

The subject: a host. A startling equation, and it would not take much, it seems to me, to make it resonate...with another formula... “The subject is hostage”.⁵⁸

Between host and hostility – a typical etymological interpretation of the roots of hospitality – a third term is interjected, that of hostage. The subject is held ‘hostage’ by the arrival of the other whom the subject is responsible for:

Responsibility for the Other is not an accident that happens to a subject, but precedes essence in it, has not awaited freedom, in which a commitment to the Other would have been made. I have not done anything and I have always been under accusation – persecuted. The ipseity, in the passivity without arche characteristic of identity, is hostage. The word *I* means *here I am*, answering for everything and for everyone.⁵⁹

Ipeity, selfhood, is to be understood beyond self-possession, as the call of *me voici*, the ‘here I am’ response to others – ‘answering for everything and for everyone.’⁶⁰ The ethical, responsible subject might be thought of in this context in relation to the difference between the Rights of ‘Man’ and ‘Citizen’ – it is from understanding of oneself qua ‘man’, that is, human being, a recognition of shared humanity, from which the responsibility of the *me voici* issues – *not* from one’s status as a citizen of a political entity.

For Derrida, this ethical responsibility must be understood as a connection between justice and law: ‘...even if justice remains transcendent or heterogeneous to law, these two concepts must

⁵⁸ ‘A Word of Welcome’, pp. 54-55.

⁵⁹ Quoted in ‘A Word of Welcome’, p. 55, from Levinas, E., *Otherwise Than Being or Beyond Essence*, p. 114.

⁶⁰ Can one truly be held responsible for the actions of others? For the wrong that someone else commits? Even sympathetic commentators like Simon Critchley (among others) take Levinas to task for going ‘too far’ on this point: see Critchley, S., *The Problem With Levinas*, Oxford: Oxford University Press, 2015, p. 88. However, one might think this problem in the context of the distinction Hannah Arendt draws between ‘guilt’ and ‘responsibility’, in that she maintains the former cannot be generalised, but the latter can – see ‘Collective Responsibility’, in Arendt, H. (Kohn, J. ed.) *Responsibility and Judgment*, New York: Schocken Books, 2003. P. 147: ‘There is such a thing as responsibility for things one has not done; one can be held liable for them. But there is no such thing as being or feeling guilty for things that happened without oneself actively participating in them.’

not be dissociated: justice demands law, and law does not wait any more than does the illeity of the third in the face.⁶¹ But in the operation of justice in relation law, Derrida comes to the themes of possibility and impossibility:

This spectral “possibility” is not, however, the abstraction of a liminal pervertibility [ie. the possibility that hospitality can always be terminated, replaced with bad intentions etc – which Hägglund is correct to emphasise]. It would be, rather, the *impossibility* of controlling, deciding, or determining a limit, the *impossibility* of situating, by means of criteria, norms, or rules, a tenable threshold separating pervertibility from perversion.

This impossibility is *necessary*. It is necessary that this threshold not be at the disposal of a general knowledge or a regulated technique. It is necessary that it exceed every regulated procedure in order to open itself to what always risks being perverted (the Good, Justice, Love, Faith – and perfectibility, etc.). This is necessary, this possible hospitality to the worst is necessary so that good hospitality can have a chance, the chance of letting the other come, the *yes* of the other no less than the *yes* to the other.⁶²

Hospitality requires a risk-taking that risks the worst, in order that the ‘yes’, the affirmation to the other be made possible. This possibility must be engendered, left open, even as limits are impossible to determine, in order to be just: ‘discourse, justice, ethical uprightness have to do first of all with *welcoming*. The welcome is always a welcome reserved for the face.’⁶³

But what is it to welcome? Here Derrida engages a theme of Levinas – that welcoming pertains to the ‘feminine’, as distinct from women – ‘It confers the opening of the welcome upon “the feminine being” and not upon the “fact” of empirical women.’⁶⁴ This is referring to Levinas’s comments in *Totality and Infinity*, where he suggests that ‘the inhabitant’, that is, the one who occupies a place and can therefore welcome, ‘the welcoming one par excellence, welcome in itself – the feminine being.’⁶⁵ (This theme will be returned to in Chapter Six, where an examination is pursued of Athena’s gesture in *The Eumenides*, and a thinking of the *Oresteian* trilogy as a drama marked throughout by sexual difference).

But the one at home who welcomes, does not necessarily feel or consider themselves at home, but is rather “at home with oneself as in a land of asylum or refuge”...the inhabitant also dwells there as a refugee or an exile, a guest and not a proprietor. That is the humanism of this “feminine alterity”...The familiarity of the home does not bring separation to an end’.⁶⁶ Two things should be noted here: firstly, that this sense of not having complete proprietorship of one’s home (or state, etc) aligns with the putting-into-question of subjectivity already examined in the previous chapter: the questioning of whether being in place is already usurpation. Hence why the very modality of being for Levinas is always already welcoming and hospitality, the putting into question the

⁶¹ ‘A Word of Welcome’, p. 33.

⁶² ‘A Word of Welcome’, p. 35.

⁶³ ‘A Word of Welcome’, p. 35.

⁶⁴ ‘A Word of Welcome’, p. 44.

⁶⁵ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 157. That Levinas has a problematic relation to gendered language and conceptuality is well-established. See for example Irigaray, L., ‘Questions to Emmanuel Levinas: On the Divinity of Love’, in (Whitford, M. ed. with introduction) *The Irigaray Reader*, Oxford: Basil Blackwell, 1991. See also the collection edited by Chanter, T., *Feminist Interpretations of Emmanuel Levinas*, University Park: Pennsylvania University Press, 2001.

⁶⁶ ‘A Word of Welcome’, p. 37.

authority of being in place. (One might think recall here Adorno's maxim from *Minima Moralia*: '[...] it is part of morality not to be at home in one's home.'⁶⁷ One might think also of Derrida's response to Heidegger's claim that 'homelessness is the symptom of the oblivion of being', and that language is the house of being (even though he will refer elsewhere to the importance of the *un-heim-lich*); Derrida writes in 'The Ends of Man', apropos of Nietzsche's Over-Man, that 'He will dance, outside of the house', in defiance a philosophy of at-home-ness (recall also Levinas's remark quoted in the previous chapter: the entry of the beggar into the House of Being).⁶⁸ For Derrida, it is necessary 'to take into account this impossibility of being one with oneself...It is because I am not one with myself that I can speak with the other and address the other...it is the only way for me to take responsibility and make decisions.'⁶⁹ Hence his critique posed to Heidegger '...has to do with the privilege Heidegger grants to what he calls *Versammlung*, gathering'.⁷⁰ Secondly, the reference to a 'land of asylum or refuge' recalls the fact that both Derrida and Levinas were explicitly concerned with what they called Cities of Asylum (Derrida) or Refuge (Levinas), which is the theme of the chapter to follow.

Returning to the question posed above: does Derrida think that Levinas's ethics can found or inform a politics? He emphasises that Levinas orients our 'gazes towards what is happening today', and names events from 'Nazi Europe' to the 'Church of St Bernard' (the latter which will be addressed in the following chapter).⁷¹ However, nowhere does Levinas himself explicitly state what should be done in a particular situation, but rather *provides criterion for judgment*: "'To shelter the other in one's own land or home, to tolerate the presence of the landless and homeless on the 'ancestral soil', so jealously, so meanly loved [the reference is to Israel] – is that the criterion of humanness? Unquestionably so.'" ⁷² That is, the other to be sheltered is not simply the one nearby (a fellow-'citizen') but also the one far away ('man', the non-citizen human being), captured in the Biblical phrase (Isiah 57: 19) Levinas so often quoted: "'Peace, peace to the neighbour and the one far-off'".⁷³

But what does this mean in political terms? On the one hand Levinas speaks of a 'going beyond the state' – a kind of messianic appeal – yet on the other, refers to the politics of the State, as Derrida comments: 'When he [Levinas] says "beyond politics", "politics" always means this non-messianic politics of the State, which is transgressed toward its beyond by that which nonetheless remains a politics, still a politics, but a messianic politics. It is true that the border lines, the rontier, the semantic identity of all these words here begins to tremble'.⁷⁴ As discussed in the previous chapter, the state is called to a vocation beyond the state – *but which is still realised within the purview of the state*. The messianic vocation of the state is to be attentive to the appeal that comes from the one 'far off', to whom one responds by state actions of rescue, refuge, solicitation and so on. This modality of responsibility evinced by the state is necessary to avoid the 'tyranny' of politics:

⁶⁷ Adorno, T., *Minima Moralia: Reflections from Damaged Life*, London and New York: Verso, 2005, p. 39.

⁶⁸ See the Translator's Preface to Derrida, J. (Spivak, G.C. trans.) *Of Grammatology*, Baltimore: John Hopkins University Press, 1997, pp. xxx-xxxii.

⁶⁹ 'The Villanova Roundtable', in Caputo, J. (ed.), *Deconstruction in a Nutshell: A Conversation with Jacques Derrida*, New York: Fordham University Press, 1997, p. 14.

⁷⁰ 'The Villanova Roundtable', p. 14.

⁷¹ 'A Word of Welcome', pp. 70-71.

⁷² Levinas, E., (trans. Smith, M.B.), *In the Time of the Nations*, Bloomington and Indianapolis: Indiana University Press, 1994, p.98. As a reference to tolerance in Israel, the potential application to Palestinians makes this a troubling remark.

⁷³ Levinas, E., *Otherwise Than Being or Beyond Essence*, Pittsburgh: Duquesne University Press, 2008, p. 157. How this might relate to the status of the Palestinians in Israel makes this a potentially vexatious remark on Levinas's part.

⁷⁴ 'A Word of Welcome', p. 74.

Metaphysics, or the relation to the other, is accomplished as service and as *hospitality*. Insofar as the face of the Other relates us to the *third*, the metaphysical relation of the I to the Other moves into the form of the *We*, *aspires* to a State, institutions, laws, which are the source of universality. But *politics left to itself bears a tyranny within itself*; it *deforms* the I and the other who have given rise to it, for it judges them according to universal rules, and thus as *in absentia*.⁷⁵ [Derrida's italics]

This reading of 'A Word of Welcome' will be resumed in part next chapter, when the section towards the end on Jerusalem and 'Cities of Refuge' is examined. For now, the animating question of this section – in what sense can Levinas be considered a political thinker – is answered in this way by Derrida: that there is a necessary relation between politics and ethics:

Ethics enjoins a politics and a law: this dependence and the direction of this conditional derivation are as irreversible as they are unconditional. But the political or juridical *content* that is thus assigned remains undetermined, still to be determined, beyond knowledge, beyond all presentation, all concepts, all possible intuition, in a singular way, in the speech and the responsibility *taken* by each person, in each situation, and on the basis of an analysis that is each time unique...As always, the decisions remain heterogeneous to the calculations, knowledge, science, and consciousness that nonetheless condition it.⁷⁶

Decision is heterogeneous to calculation – to anticipate and to determine in advance the precise response in a unique situation is to abrogate responsibility, which is nevertheless set in motion by the consideration for others discussed above. Yet Derrida does speak of a 'silence' in Levinas's work on the becoming-operative of this ethics⁷⁷ – which as previously noted, Levinas readily admits to. There is indeed a gap from Levinasian ethics to a practical politics, or a description of an exact political program to be implemented – but this is precisely the responsibility of not predetermining the outcome of unknown events. What should keep watch over and inform all decisions of the political realm, however, *is explicit* in Levinas – *an ethos of responsibility* for others, not only those near but also those 'far off' – the 'Rights of Man', and not just one's fellow citizens.⁷⁸

Derrida on Hospitality

While this chapter is primarily concerned with Derrida's relationship to Levinas on the topic of hospitality, some additional commentary is required to explicate more of Derrida's own work on hospitality – in particular on the theme of a going-beyond measure, and a description of hospitality as a form of *grace*, which will be important for the chapters that follow and in particular Chapter Six.

⁷⁵ *Totality and Infinity*, p. 300; quoted in 'A Word of Welcome', pp. 97-98.

⁷⁶ 'A Word of Welcome', pp. 115-116.

⁷⁷ 'A Word of Welcome', p. 114.

⁷⁸ In footnote 95 on p. 147 of *Adieu*, Derrida ranges Levinas against Carl Schmitt: 'To my knowledge, Levinas never speaks of Schmitt... This discourse of the enemy as the discourse of totality, so to speak, would thus embody for Levinas the absolute adversary.' Thus Schmitt can be added, ironically, in a concatenation of opponents for Levinas, precisely because he subscribes to the concept of enemies – Schmitt joins Heidegger, Hegel, and others already mentioned.

Firstly, what interest did Derrida have in the Rights of Man? Was this grand, formalising conception of human dignity too reifying for his tastes? Far from it:

...each advance in politicization obliges one to reconsider, and so to reinterpret the very foundations of law such as they had previously been calculated or delimited. This was true for example in the French Declaration of the Rights of Man, in the abolition of slavery, in all the emancipatory battles that remain and *will have* [emphasis added] to remain in progress, everywhere in the world, for men and for women. *Nothing seems to me less outdated than the classical emancipatory ideal.*⁷⁹ [emphasis added]

So the 'classic emancipatory ideal' remains important to Derrida, who – as seen in the discussion of Hägglund above – can certainly be viewed as a thinker of ethical affirmation and of justice: in *Force of Law*, he explicitly states that 'deconstruction is justice'. But how is justice-as-deconstruction to be understood? In *Deconstruction in a Nutshell*, he gives the following answer:

A justice that could appear as such, that could be calculated, a calculation of what is just and what is not just, saying what has to be given in order to be just – that is not justice. That is social security, economics. Justice and gift should go beyond calculation. This does not mean that we should not calculate. We have to calculate as rigorously as possible. But there is a point or limit beyond which calculation must fail, and we must recognise that. What I tried to think or suggest is a concept of the political and of democracy that would be compatible with, that could be articulated with, these impossible notions of the gift and justice. A democracy or a politics that we simply calculate, without justice and the gift, would be a terrible thing, and this is often the case.⁸⁰

The an-economic language is explicit: justice is that which must go beyond calculation: 'justice cannot be reduced to a calculation of sanctions, punishments, or rewards. That may be right or in agreement with the law, but that is not justice. Justice, if it has to do with the other, with the infinite distance of the other, is always unequal to the other, is always incalculable.'⁸¹

Recall that Derrida admired Levinas's formulation of justice as the 'relation to the other'. This relation to the other as a mode of justice, is a justice that respects the alterity, the infinite irreducibility of the other to signification and calculation. But this relation to alterity requires the recognition of a 'perhaps' - In 'Force of Law' he writes: "'Perhaps' -one must [*il faut*] always say perhaps for justice. There is an *avenir* for justice and there is no justice except to the degree that some event is possible which, as event, exceeds calculation, rules, programs, anticipations and so forth. Justice, as the experience of absolute alterity, is unrepresentable, but it is the chance of the event and the condition of history.'⁸²

Here an important theme emerges: the beyond of justice, that which is above, beyond or prior to calculation, can be understood as *grace*. As an unconditional that relates to the conditional, Derrida wrote of hospitality that:

For to be what it "must" be, hospitality must not pay a debt, or be governed by a duty: it is gracious, and "must" not open itself to the guest [invited or visitor], either

⁷⁹ Derrida, J., 'Force of Law: The Mystical Foundation of Authority', in *Acts of Religion*, New York and London: Routledge, 2002, pp. 257-258.

⁸⁰ 'The Villanova Roundtable', p. 19.

⁸¹ 'The Villanova Roundtable', p. 17.

⁸² 'Force of Law', p. 257.

“conforming to duty” or even, to use the Kantian distinction again, “out of duty”. This unconditional law of hospitality, if such a thing is thinkable, would then be a law without imperative, without order and without duty. A law without law, in short. For if I practice hospitality “out of duty” [and not only “*in conforming with duty*”], this hospitality of paying up is no longer an absolute hospitality, it is no longer graciously offered beyond debt and economy, offered to the other, a hospitality invented for the singularity of the new arrival, of the unexpected visitor.)⁸³

Beyond debt, economy and calculation, there is gracious hospitality – which must nevertheless enter into conditioned hospitality. Derrida makes similar points in relation to what he calls the ‘democracy to come’, in contradistinction to the Kantian regulative ideal, which ‘remains in the order of the *possible*, an ideal possible that is infinitely deferred...To this I would oppose, in the first place, all the figures I place under the title of the *im-possible*, of what must remain (in a nonnegative fashion) foreign to the order of my possibilities, to the order of the “I can”, ipseity, the theoretical, the descriptive, the constative, and the performative’.⁸⁴ The notion of ‘democracy to come’, then, is closely aligned to the im-possible, similar to Derrida’s writings on the ‘pure’ concepts of forgiveness, justice, the gift, and so on. These concepts never appear in the world fully formed or pure; they enter always into inescapable circles of economy that render them less than pure (for example, the giver who is aware that they give and thus already starts to receive something in return for the gift). This would appear to be a consistent theme in Derrida.

But then, does grace survive the encounter with the conditional? Derrida, who usually insists that the impossible never arrives as such, seems to waiver on this point:

Grace would perhaps come when the writing of the other absolves you, from time to time, from the infinite double bind and first of all, such is a gift’s condition, absolves itself, unbinds itself from this double-bind, unburdens or clears itself, it, the language of writing, this given trace that always comes from the other, even if it is no one... This grace is always improbable; it is never proved. But must we not believe it happens?⁸⁵

Can there be any such thing as a gracious act? Does gracious hospitality ever enter into lived experience? Here Derrida thinks it in relation to the trace and the gift, that which is marked by the circularity of economy, but seems to hesitate to declare it, as above, ‘foreign to the order of my possibilities’, but rather something that one must believe happens. There seems to be a trembling at the edge of a limit here, where grace itself cannot be thought of as pure grace versus impure grace, like his other unconditional themes – justice, forgiveness, and so on - where grace remains what it is, *gratis*, free and unconditioned yet *also* something that happens. Does that mean that grace arrives as such? Does it make sense to speak of unconditional and conditional grace, in the manner of these other themes like forgiveness?⁸⁶ This is a difficult thread to pursue, but one might note that in his most extended treatment of the theme of the gift, *Given Time*, grace is barely mentioned – albeit with

⁸³ ‘Step of Hospitality’, in *Of Hospitality*, p. 83.

⁸⁴ *Rogues*, pp. 83-84.

⁸⁵ Quoted in Roberts, T., ‘Confessing Philosophy/Writing Grace: Derrida, Augustine and the Practice of Deconstruction’, *Soundings: An Interdisciplinary Journal*, Vol. 79, No. 3 / 4 (Fall/Winter 1996), p. 489.

⁸⁶ In the *Nicomachean Ethics*, Aristotle speaks of the Temple of the ‘Graces’, those symbols meant to remind citizens to maintain the proportional reciprocity of generous giving– but this is entirely a circular, economic process – the intentional, gracious act is always already set within the context of an expected return in future. Is this what grace, *gratis*, means, or is it that which is never tied to conditions? See Aristotle, *Nicomachean Ethics*, London: Penguin Books, 2000, p. 124.

reference to its etymology as *gratis*.⁸⁷ Derrida is not unaware of this – but does he distinguish this idea sufficiently from other ideas – the gift, mercy and so on? Could gracious hospitality not constitute an irruption within his own thinking of the unconditional? What if Derrida’s commitment to the circularity of the gift-as-economy blinds him to the an-economic *possibility* of grace? Can there not be a gratuitous intentionality of the giver, even that gift does involve a return to them? Does the circularity of the gift in relation to the consciousness of the giver (that they inevitably ‘get something back’, become aware of themselves as a giver in the act of giving), exhaust the interpretation of the *intention* of the act of giving – can the intention of giving rather proceed from a grace beyond measure? This thread is taken up again in Chapter Six, where gracious hospitality is the explicit theme.

Derrida’s thinking of grace is also figured in his thinking of life and death, of saving life from death. Hence the very final sentences of Volume One of his *Death Penalty* seminar:

Love itself has need of it, this granted grace, in order to save itself, to attempt forever to come through safe and sound. It must keep watch [*veiller*], it must mount surveillance over survival; it must keep watch to organize, work, and militate with a cool head, but it must never cease appealing to the chance of a pardon issued, of grace granted.⁸⁸

‘Granted grace’ as that which sides with life and survival over death, of a making or letting live as opposed to a making or letting die (to borrow Agamben’s terminology), in the context of the politics of asylum, will be discussed at length in Chapter Six. But such grace should not be understood as the arbitrary caprice of the sovereign, but rather as the sovereign’s self-understanding of responsibility, in the context of the recapitulation of the political at work in the present argument.

A final note on Derrida’s thinking of the political, in relation to that already discussed in relation to Levinas: how Derrida views the state. His view of the potential of the state is rather of the order of ‘on the one hand, on the other hand’ – as will be seen in the next chapter, he evinces a disappointment with the possibilities of justice issuing from the state, in his appeal for Cities of Asylum to be established. It is necessary to recognise, in his view, that ‘the indivisible sovereignty of the nation-state is being more and more called into question’.⁸⁹ Yet he also sees some value in the state:

Nation-state sovereignty can even itself, in certain conditions, become an indispensable bulwark against certain international powers, certain ideological, religious, or capitalist, indeed linguistic, hegemonies that, under the cover of liberalism or universalism, would still represent, in a world that would be little more than a marketplace, a rationalization in the service of particular interests.⁹⁰

This on the one hand, on the other view of the state is precisely the view at work in the present argument. Whether it comes via a challenge to the state, or via the state itself, does not matter so much as that the application of an *ethos of responsibility* comes into play, where ‘responsibility would consist in orienting oneself without any *determinative* knowledge of the rule.’⁹¹ In the context of refugees, at one moment one might protest against the state’s injustices, at another it might serve as the guarantor against injustice. The state may harm or exclude, but it can also shelter and protect –

⁸⁷ Derrida, J., *Given Time: 1. Counterfeit Money*, Chicago: University of Chicago Press, p. 126.

⁸⁸ Derrida, J. (ed. Bennington, G., Crépon, M., Dutoit, T., trans. Kamuf, P.) *The Death Penalty: Volume One*, Chicago and London : University of Chicago Press, 2014, p. 283.

⁸⁹ *Rogues*, p. 157.

⁹⁰ *Rogues*, p. 158.

⁹¹ *Rogues*, p. 158.

indeed, the borders of a state are precisely that which will guarantee sanctuary at times. Thinking it in this manner would imply that sovereignty is not simply to be abolished, but rather permanently put in question, in novel situations always to be re-negotiated. Whether it is the city or state, as Robert Eaglestone puts it: 'deconstruction [is]... resistant to those discourses that will reduce it or delimit the potential of the *polis* for justice.'⁹²

Impossibility and the Limits of Hospitality

Before concluding and turning to the chapter on Cities of Asylum, some clarification is needed as to what is intended by considering Derrida a thinker of impossibility. This word-concept is to be found constantly in his writings; here it will be explained in relation to the conception at work in the present argument, that he is – like Levinas – an *an-economic* thinker, a thinker concerned with a vision of justice that exceeds the calculative (while remaining aware of its necessity).

Certain statements he made in his texts – the aforementioned 'let us say yes *to who or what shows up*', as one example - have led many to believe that Derrida in practice subscribed to a limitless and irresponsible notion of hospitality. And indeed, taken on its face, the rhetoric might point in that direction, if isolated from other commentary. This notion of hospitality would seem to align with other Derridian concepts like the gift, forgiveness and so on, that can never arrive complete and whole, but must be mediated – seemingly akin to the Kantian notions of the conditioned and the unconditioned. And if Derrida is putting in a word for the unconditioned, it is perhaps because conditioned hospitalities may lack something – may lean on a 'calculus of moderation', a conditioning which makes no reference to any claim beyond it – a sense of goodness 'beyond the state', or beyond the calculative. In a footnote to *Rogues*, Derrida responds to those who accuse him in a facile manner of being for unconditional hospitality in the practical sense:

I have always, consistently and insistently, held *unconditional hospitality*, as *impossible*, to be *heterogeneous* to the *political*, the *juridical*, and even the *ethical*. But the impossible is not nothing. It is even that which happens, which comes, by definition. I admit that this remains rather difficult to think, but that's exactly what preoccupies what is called thinking, if there is any and from the time there is any.⁹³

Impossibility might be said to be a central motif of the work of Derrida (even if he is often resistant to defining motifs or themes in his work, there is nevertheless an unmistakable recurrence of the theme of impossibility). This motif is linked primarily to another consistent theme in Derrida – that of the *aporia*. An *aporia* – irreconcilable doubt in a word, concept, situation – is the place where the impossible is faced. In the experience of an *aporia* one reaches the limit of comprehension, the impossibility of proceeding further with any certainty. (give an example of an *aporia*). Yet paradoxically, this experience of impossibility opens the way for ethical responsibility. As observed in the introduction, responsibility according to Derrida occurs when we are not sure what we should do. If we know what must be done, we do not take responsibility; we simply do what we should be doing. A truly responsible decision can only be made where one is not sure what the correct action to take is. It is possible to be responsible, only within the heart of impossibility.

⁹² Eaglestone, R., 'Derrida and the Holocaust: A Commentary on the Philosophy of Cinders', *Angelaki: Journal of the Theoretical Humanities*, Vol. 7, No. 2, August 2002, p. 36.

⁹³ Derrida, J., *Rogues: Two Essays on Reason*, Stanford: Stanford University Press, 2005, p. 172, footnote 12.

A good example of this can be found in Derrida's reflections on forgiveness. If a person forgives what can readily be forgiven, do they really forgive? One simply does what is easily done. True forgiveness, Derrida controversially argues, occurs only when what is to be forgiven is unforgivable. But such forgiveness is necessarily impossible, and Derrida is aware of that. His thinking on these aporias is deliberately provocative, intended not to offer any possibility of final resolution of problems, but rather to focus in on the language, to be very specific about what is meant by forgiveness as a way of clarifying the distinctions. Paradoxically for the father of deconstruction, he introduces a motif of purity, of pure, undeconstructible concepts, 'pure forgiveness', 'pure justice', 'pure gift' and so on as a way of demonstrating the operative effects of these concepts, and how they quickly bump up against limits.⁹⁴

So, does the emphasis on thinking about the impossible in Derrida mean that his thinking on ethics is opposed to that of Levinas, who seemed to emphasise possibility? Despite the opposing terms, this is not the case. For in the heart of Derrida's impossible is precisely where the birth of the possible can begin. Possibility only arises in the experience of the impossible. In this way the ethical is the exceptional, the difficult, transgressive and under threat. In Derrida it is passing through the impossible, in Levinas it is breaking through the strictures of Being. It should be emphasised that these points of view are not saying the same thing in the same way, but there is a verisimilitude to their respective approaches. Both deconstruction and Levinas's ethical philosophy aim to disrupt the totalising one-ness in – everything! – in being, in totality, in discourses that repress one of the elements of the matter in consideration (the female, the non-white, the homosexual, writing as opposed to speech, and so on), to expose them to other-ness, in order to achieve the triumph of ethics or justice: 'deconstruction is justice'. The semantics of possibility and impossibility – beyond the more precise meanings pursued in these chapters – can shift around; so for example, while Levinas is posited here as a thinker of possibility, some commentators see his ethics as able to 'become legible only within a certain experience of impossibility'; a view borne out by Levinas's own remark to an interviewer, that yielding to the other is 'hardly possible, yet holiness demands it'.⁹⁵

In thinking the difference between conditional and unconditional hospitality, between possibility and impossibility, another critical note in the direction of Derrida needs to be sounded. This was broached in the Introduction as the household as 'the false synecdoche of the state' – that the house, in the language of politics and economics (which so often merge, or where the latter dominates the former), comes to represent the image of the state. In his paper 'Hostipitality', Derrida (in relation to Kant's reflections in *Perpetual Peace*) writes of hospitality as:

[...] economy and thus *oikonomia*, law of the household (where it is precisely the patron of the house – he who receives, who is master in his house, in his house-hold, in his state, in his nation, in his city, in his town, who remains master in his house – who defines the conditions of hospitality or welcome; where consequently there can be no unconditional welcome, no unconditional passage through the door.)⁹⁶

Hospitality has to do with economy – *oikonomia*, *oikos* and *nomos*, the law (*nomos*) of the household (*oikos*). If justice has to do with going beyond calculation and economy, as we have seen, it necessary that this law of the household be suspended, if at all possible, which Derrida recognises when he takes up the problem of the threshold and the door: [...] for there to be hospitality, there

⁹⁴ See Derrida, J., *On Cosmopolitanism and Forgiveness*, London and New York: Routledge, 2001.

⁹⁵ See the Introduction to *Is It Righteous To Be?*, p. 8.

⁹⁶ Derrida, J., 'Hostipitality', *Angelaki: Journal of the Theoretical Humanities*, Volume 5, No. 3, December 2000, p. 4.

must be a door. But if there is a door, there is no longer hospitality. There is no hospitable house... This is the difference, the gap, between the hospitality of invitation and the hospitality of visitation', where the former requires no door, and the latter does.⁹⁷

This is reasonable on its face, but the link between hospitality and *oikonomia*, to do with the house (and the images of doors, windows and thresholds), perhaps requires rethinking in the context of the politics of asylum. When the thinking of hospitality is applied in that specific context, does not the household become the false synecdoche of the state? That is to say, isn't there a radical difference between the inherently limited capacities of any household, and that of some states, whose wealth, size and population make its limit-conditions far from clear (or in certain cases, it might even be possible to posit the absence of any limit, that is, scarcity, that is, the need for an *economy* of welcome)? A house has limited resources; a state is backed by its taxation power indefinitely. A house has limited surface areas available; the entire population of the Earth could fit into New Zealand, taking the urban density of Manhattan as the model, with the rest of the surface of the Earth to spare (a number of speculative possibilities have been posited along these lines).⁹⁸ Thus the suggestion which was broached in the Introduction emerges fully here: *perhaps the very word hospitality – in its relation to economy and the image of the household – is misleading.*

Thus the question of whether hospitality requires a thinking of a 'grace beyond measure', and the suspension of the 'calculus of moderation', would depend upon whether there is any such thing as economy as it pertains to the politics of asylum. It could well be that, in global terms, *there is no limit*. But this thought – no mere hyperbole, following the preceding reflections – must be held in suspension, as limits are recognized everywhere, both in politics and philosophy, even the hyper-ethical philosophy of Derrida.

Consequently, returning to the world of limits: what needs to be thought, is the relation between the possible and the impossible, the conditional and the unconditional. Here a final, vital Derridian theme needs explication: that of *negotiation(s)*. The provisional (s) appended to the word negotiation indicates that negotiations are plural – there is never, in the context of the politics of asylum, only one negotiation that sees an end to all questions of hospitality; negotiations are multiple and ongoing. Negotiation requires a ceaseless movement between the possible and the impossible (in its etymology, *neg-otium*, it means not-ease, not-quiet, no leisure⁹⁹): for Derrida 'negotiation is the impossibility of establishing oneself anywhere':

One cannot separate this concept and this practice of negotiation from the concept of the double bind, that is, of the double duty. There is negotiation when there are two incompatible imperatives that appear to be incompatible but are equally imperative. One does not negotiate between exchangeable and negotiable things. Rather, one negotiates by engaging the nonnegotiable in negotiation.¹⁰⁰

This negotiation implies a risk-taking, but one that is animated by a 'yes' - without which there would be no negotiation.¹⁰¹ Derrida's hospitality is set in motion by a 'yes' to who or what turns up – a yes without limits, that must then enter into calculation, just as Levinas posits an unconditional

⁹⁷ 'Hostipitality', p. 14.

⁹⁸ See <https://www.fastcoexist.com/3016331/visualized/think-the-world-is-crowded-you-could-fit-the-entire-human-race-in-new-zealand>, retrieved 4/9/2016.

⁹⁹ See the interview with Derrida titled 'Negotiations', in Rottenberg, E. (ed.) *Negotiations: Interventions and Interviews, 1971-2001*, Stanford: Stanford University Press, 2002, p. 11.

¹⁰⁰ 'Negotiations', pp. 12-13.

¹⁰¹ 'Negotiations', p. 31.

goodness that must enter into the calculative via the work of justice – that is, the relation to the other. As long as limits are assumed in the context of a politics of asylum – that is, as long as asylum is thought within the limits of hospitality/household/economy – then the preliminary yes or gracious suspension, that afterwards enters into the calculation of justice, is the most affirmative *ethos* of responsibility that can be posited.

Conclusion

Perhaps it is not desirable to argue for either a conflation or a dis-joining of Derrida and Levinas, but rather to listen to what they themselves say about their interactions – Levinas, on the pleasure of a ‘meeting in the heart of chiasmus’, Derrida, on the ‘question-prayers’¹⁰² that passed back and forth between them. Derrida’s ‘ethics’ are certainly not reducible to Levinas, but nor perhaps can they be understood without him. In *Counterpath*, Derrida, in correspondence with Catherine Malabou that is less formal than some of his other philosophical texts, notes that ‘Every other is wholly other’, this sentence you quote, Catherine, fell first, if I may say so, like a stone in Levinas’s garden...’.¹⁰³ What does this mean? Is it a reference to a lived experience, that one day, while walking in Levinas’s garden, a thought occurred to Derrida that fell ‘like a stone’? Or is it metaphoric remark, an experience that occurred in the ‘garden’, in the environs of Levinas’s thought - ? That this thought of respect for the other for Derrida could only have come from within the welcoming habitat of the thought of Levinas? No doubt it is intended as a poetic, enigmatic remark. But the undecidability of even such a remark as this should perhaps serve as a caution against deciding too quickly just how close Derrida is to Levinas.

‘*Tout autre est tout autre*’ – ‘every other is every/wholly other’ – one of the key pronouncements by Derrida on ethics, is a statement that he attributes, if somewhat enigmatically (a stone falling in a garden-!?, what a strange and perhaps beautiful way of putting it), to a certain proximity with Levinas. And this may be the best way to think the relationship between these thinkers. They are in a certain *proximity* with each other on ethical matters, but one cannot simply conflate them (they remain other to each other), nor dis-join them. This phrase that Derrida coins in Levinas’s garden is also a fecund description of his thought’s relationship with Levinas: every other is wholly other, they cannot be reduced to the same. There is much that they agree on, even if they do not say the same thing in the same way. In general, where Derrida criticises or deconstructs the philosophy of Levinas, it is not so much what he is *saying* or its import, but rather how it is being *said*; Derrida seems to admire the ethical thrust of the ‘saying’, the good intent, but finds Levinas going awry in how that saying enters into the ‘said’, in its simultaneous employment and denunciation of metaphysical language, of its linguistic subjugation of the feminine into second place behind the masculine, the lack of a thinking of the animal, and other reservations. The Derrida who claims that the Shoah has influenced everything he has ever been able to think can hardly be in opposition to the ethical philosophy of Levinas which is borne precisely of the same concerns, of the experience and the aftermath of the horrors of World War Two and specifically the Shoah; their concerns are often the same if also often differentiated in style, approach and register of concerns.

¹⁰² *Adieu To Emmanuel Levinas*, p. 13.

¹⁰³ Malabou, C., and Derrida, J., *Counterpath: Travelling with Jacques Derrida*, Stanford: Stanford University Press, 2004, p. 267.

The Levinasian movement between Saying and Said, between attitude and action, seems an apt way to characterise the interactions of these two thinkers. There is call and response, correction and criticism, an on-going dialogue over several decades that ceased only with their deaths (it did not necessarily cease with the first death, that of Levinas in 1995, because Derrida continued to write about and discuss the work of Levinas until his own death in 2004, notably in *Adieu*, and scattered references in other texts not devoted solely to Levinas). One sought the possible and the other the impossible, though this can also be seen to mean the same thing, but not 'in the same way'. The same but different, always-already 'dis-joined', but also inseparably joined – but how is this possible? One can see here the play of possibility and impossibility, the non-reduction of their interactions to any one schema of meaning, the denial of one-ness that is part of the spirit of deconstruction and the ethical philosophy of Levinas, *both of which seek to create a space not for one-ness but for difference*, a fertile garden in which it can flourish. In 'At This Very Moment' Derrida speaks of the word 'probably' when used by Levinas – 'I cut across my reading to admire this "probably"'.¹⁰⁴ This mutual love of the probably should, probably, underline everything that is said about the writings that moved between Levinas and Derrida, traversing as in a chiasmus, without being reduced down to the same. Two distinct lines of thought that nevertheless intersect decisively around questions of the ethico-political, especially hospitality.

To summarise the development of the argument thus far: an *ethos of responsibility* has been posited in relation to stateless persons. There are two primary stipulations of this ethos: firstly, that, *pace* Arendt, a recognition of the 'Rights of Man', which is to say, human dignity as understood via the phenomenology of Emmanuel Levinas, is a necessary condition for such an ethos. Secondly, the recognition of human dignity, in the face of millions of stateless persons, requires a recognition of an ethics that is not a priori bound to considerations of the moderate and reciprocal (the calculus of moderation) as the horizon of goodness – that a principle of gracious welcome that is prior to justice-as-calculation.

Subsequently, this ethos will be examined in relation to the sites of concern in relation to granting refuge – cities and states. This ethos is thought both with and against state sovereignty: in the context of Cities of Refuge, in Chapter Four, state sovereignty is put into question; in Chapter Five, the idea of 'France alone' taking sole responsibility for all stateless persons in the world, makes sovereignty coterminous with responsibility. How might this ethos be operable, what might its contours look like in the domain of political praxis? How should such an ethos function in a context of ambiguity – what does responsibility in the context of asylum ultimately mean? In Chapter Six, these reflections upon responsibility are concluded with a reading of the Oresteia, which, it is argued, presents a case for the state as the locus of a justice given to the vulnerable suppliant, but a justice that is informed and guided by a gesture of grace.

¹⁰⁴ 'At This Very Moment...', p. 23.

CHAPTER FOUR – TESTING THE LIMITS, PART ONE: CITIES OF REFUGE

The form of a city changes faster, alas!, than the human heart.... - Baudelaire

Introduction

Following the exploration of the work of Levinas and Derrida in the previous two chapters, this chapter and the next seek to explicate that work in terms of political *praxis* – that is, to explore how theory becomes operative in this context. In Chapter One a possible reorientation of state sovereignty was posited – in moral terms – that the telos of the state be reconfigured as an *ethos of responsibility* rather than as self-preservation or self-interest. Levinas in his writings holds the state to this standard: it can be judged on how it meets the needs of others (and not only its own citizens), hence his emphasis on, and defence of, the Rights of Man, beyond the limits of citizenship. He advocates a statist politics that goes beyond the state, that calls into question the state while also recalling it to responsibility. Derrida too had occasion to call the limits of the state into question, even going as far, as noted in the previous chapter, to advocate a general ‘yes’ to ‘who or what turns up’; a welcome seemingly without limit, and in defiance of limits, of the very concept of limit.

While the state can be the respondent in an *ethos of responsibility* (and will be the focus of the next chapter), it is also possible to posit other polities that might answer the same call. Arendt had called for ‘newly defined territorial entities’ in her demand for a new guarantee of human dignity, but left largely undetermined what those entities should be. A particular political entity – the modern metropolitan city – is in focus here (as opposed to the *polis* in the classical sense, or other manifestations such as the historical city-state, where the city and the state were more or less coterminous, although some consideration of these will also feature in the development of the argument). In order to interrogate the arguments of Derrida and Levinas as to the practical implications of an *ethos of responsibility*, this chapter focuses on a theme common to both: Cities of Asylum (or Refuge, the term Levinas uses). In view of the reorientation of sovereignty posited in this thesis as a modality of responsibility, it is important to consider the question of whether nation-state sovereignty can be challenged, interrupted or even superseded by an arrangement whereby a city (or region, and so on) might directly proffer asylum to a vulnerable suppliant – that is, a refugee or asylum-seeker. This analysis can also be extended to other possibilities of political organisation *within* cities - for example, the current efforts in Australian hospitals and churches to shelter asylum-seekers from the Australian Federal Government's punitive offshore detention regime; this will be discussed in relation to other examples, such as the case of the Church of St Bernard in Paris. In what ways is the modern city capable of providing the guarantee of human dignity Arendt calls for, either in conjunction with, or defiance of, the state?

Recall from Chapter One and *passim* the discussion of the Rights of Man and the Citizen of 1789: that it is sometimes noticed that one can pause on the word ‘and’ in the Declaration: the Rights of Man *and* Citizen. This ‘and’ would seem to suggest that Man and the Citizen are not the same thing, and perhaps do not share the same rights. *If* a nation-state under the auspices of its sovereign rights will not accommodate a vulnerable suppliant, yet the leaders or citizens of a *city* within that state recognise the moral needs of that suppliant – their rights as persons to human dignity - is there any possibility of a negotiation, contravention, gracious suspension, or challenging of the definitive right

of the state to determine asylum? In the tension between the rights of man and the citizen, is it the case that the rights of the 'citizen' – that is, the delimitation of access to protection by virtue of the membership of a sovereign state – should always trump the rights of 'man'? Can the polis as city be politically separated from the polis as state in the Westphalian order? Can hospitality – an ethics of hospitality, in the name of a conception of justice grounded in human dignity - be thought and practiced beyond or in defiance of the limits of state sovereignty? This is the fundamental question posed in this chapter.

On the City

What is a city? Is it something closed off, or is it rather perpetually evolving and open to otherness? Cities, in theory and in actuality, are seemingly more indeterminate than is immediately apparent. To declare what a city is, define it and give it an ending and borders, may be to miss the point entirely. But for the sake of the arguments to follow, some preliminary considerations on the understanding of the meaning of the concept of the 'city' require elaboration.

Derrida's most sustained discussion of cities comes in the essay 'Generations of a City: Memory, Prophecy, Responsibilities'¹, where he observes: 'A city is a memory and a promise which are never confused with the totality of what is *presently* visible, presentable, constructed, habitable'.² A city, to borrow a standard Derridian formulation, is something that is always still *to come* (*à venir*), its essence that of a non-essence, an open horizon to a permanent futurity of change.

In insisting upon the openness and the structural to-come of cities, Derrida invokes a double meaning in the title of his text, 'Generations of a City': both the physical generation of the city itself, and the generations of people who construct it, a construction that changes and evolves with each generation. 'Otherwise put, what makes possible the living community of the generations who live in and construct the city, who permanently orient themselves towards the very projection of a city to be de- or re-constructed, is the paradoxical renunciation of the absolute tower, of the total city which reaches the sky: it is the acceptance of what a logician would perhaps call the axiom of incompleteness'.³ Derrida offers here an anti-thanatotic gesture against the sepulchre-isation of cities – the perpetual motion of change which breathes life into what might otherwise come to resemble a collection of tombs and cemeteries, and he quotes Kafka to this effect: 'only in the city are there things to see, for everything that streamed past the train window was cemetery or could have been, nothing but things that grow above corpses, whereas the city after all stands out in strong and vigorous contrast to that'.⁴ Cities must remain open to their own self-difference, in order to avoid taking on the aspect of a mausoleum or museum. The city generates itself, endlessly. There is no finished form to a city, no true 'city limits'.⁵

¹ Derrida, J., 'Generations of a City: memory, prophecy, responsibilities', in the journal *Alphabet City Six: Culture Theory Politics*, Edition 'Open City', Toronto, 1998, pp. 12-27.

² 'Generations of a City', p. 17.

³ 'Generations of a City', p. 16.

⁴ 'Generations of a City', p. 15. Kafka here contrasts the vivacity of the city with the deathly nature of the country; the city is privileged precisely for its life and energy, of its not coming to a stop, though there is some ambivalence in the letter to Max Brod that Derrida is quoting from.

⁵ For a discussion of the City as it relates to incompleteness as an experience of 'ruins', see Damai, P., 'Messianic-City: Ruins, Refuge and Hospitality in Derrida', *Discourse*, Vol. 27, no. 2/3, 2005, pp. 68-94. On this reading, and drawing on Derrida, ruins would not be a bad thing, but a condition of the life of the city; though ruins and incompleteness are conflated in a way that might be questioned – not all ruination is incompleteness, and not all incompleteness is ruination.

Derrida is suggesting that there is a very real violence possible in the city which closes over on itself, stops growing, excludes new life and change, but it is a violence done both to those outside it and to itself. In an elegant passage in *Archive Fever*, Derrida summarises the theme of violence that results in striving for oneness:

“As soon as there is the One, there is murder, wounding, traumatism. L'Un se garde de l'autre. The One guards against/keeps some of the other. It protects itself from the other, but, in the movement of this jealous violence, it comprises in itself, thus guarding it, the self-otherness or self-difference (the difference from within oneself) which makes it One. The "One differing, deferring from itself." The One as the Other. At once, at the same time, but in a same time which is out of joint, the One forgets to remember itself to itself, it keeps and erases the archive of this injustice that it is. Of this violence that it does. L'Un se fait violence. The One makes itself violence. It violates and does violence to itself but it also institutes itself as violence. It becomes what it is, the very violence-that it does to itself. Self-determination as violence. L'Un se garde de l'autre pour se faire violence (because it makes itself violence and so as to make itself violence).”⁶

This principle of the violence of the ‘One’ applies as much to cities as it does to anything else (culture, language, state borders and so on). Jacques De Ville in *Jacques Derrida: Law As Absolute Hospitality*, emphasizes the importance to Derrida’s themes of Freud and the death drive and its relation to the pleasure principle, quoting Derrida that ‘Full, absolute presence...equals death’.⁷ Identity is never stable, but ‘always already’ operating with the play of ‘differance’; it is not desirable that the city ever achieve full presence with itself – whatever that could mean!

Not only is a city not simply what is present, but its existence is not limited to its physical manifestations, as social and political modes of interaction become more spectral, digitized, without fixed location: ‘The question “what is a city?” and “what is a capital?” takes on today an allure all the more melancholic or eschatological when... the city [ville], the metropolis, the polis, the cité are already no longer the steadfast and ultimate unities, the topological unities of habitat, of communication, of strategy, of commerce... of a politics which will changes its name as soon as the city as polis or acropolis no longer provides the measure of the res publica. But the fact that this “post-city age” has begun does not mean that we should forget the city’.⁸ This latter point is essential, for asylum is not of the order of spectrality or digitization; asylum would seem to necessitate a physical manifestation of what are ‘cities’, for the physical protection and succour of human bodies, regardless of how else Derrida or others might ‘think’ the city.

Derrida evokes the Biblical tale of the Tower of Babel in his discussion of the nature of cities. Babel was a totalizing project, an attempt to complete a perfect, God-emulating city. As Derrida notes, Babel is also a theme in Kafka, the higher perfection of not building ‘the totalitarian project of the tower’.⁹ To close off and finish a city would be to give it over to death: ‘What is catastrophic for a city plan is the desire to resolve all problems exhaustively within the timespan of a generation and not to give time and space to future generations’.¹⁰ A city does not come to its conclusion, one day in history, with defined borders and a defined population (unless it is totally destroyed in an act of war or nature, but few cities are ever completely destroyed); it is ever changing, usually growing, perhaps declining or recovering, but always in flux. Babel is an impossibility, and not even desirable.

Derrida thus links this to another of his recurring motifs, that of the aporetic moment of decision; for if one simply implements a program that one knows in advance, then one does not take a decision, in its pure form where one must choose without being certain of the best choice or the

⁶ Derrida, J., *Archive Fever: A Freudian Impression*, Chicago: University of Chicago Press, 1995, p. 78.

⁷ De Ville, J. *Jacques Derrida: Law As Absolute Hospitality*, New York: Routledge, 2012, p. 35.

⁸ ‘Generations of a City’, pp. 17-18.

⁹ ‘Generations of a City’, p. 20.

¹⁰ ‘Generations of a City’, p. 21.

outcome. One cannot always know the correct decision to make; true responsibility is to make a decision where the outcome is uncertain. For the city too, its limits and its welcome, the proper decision in each case is as if hidden behind a veil - there is always an element of uncertainty.

Justice in the city is also in a sense, justice for the city: 'what responsibility is assigned to us by the city?'¹¹ A city has a heritage to be protected, but not so that it closes over on itself; to be responsible is also to insist on its openness, not only for those it welcomes but for the city itself, and Derrida ventriloquises the city to declare as much: 'I am one, but I am only the threshold of myself, guard me, protect me, save me, save therefore the order which I give you, heed my law, it is one, but for this construct me, thus de- and re-construct me, you are at the threshold, expand me, transform me, multiply me, don't leave me intact, take the risk of deconstructing me. If you leave me intact, and one, you will lose me. It is necessary both to protect me and to assault me'.¹²

But who is responsible for the city, and in the name of what? What country, language, historical heritage determines the nature and limits of this responsibility in each case? There are many cities in the world that are sites of multiple heritages and culturally significant for disparate groups who do not see eye to eye – one can think of cities and regions with mixed ethnic populations and whose membership of nation-states has changed in history from one to another. Does a city ever belong only to one group, or is it often a disparate inventory of sometimes competing groups? Responsibility for the city is therefore not always easy to determine, but remains open, indeterminate and problematic.

The city is not just its buildings or its people; it is also the idea of the city - how the city is spoken of or thought of, its conceptualization. It is the site of business activity, of the work of capitalism, but also perhaps the site of resistance to that activity; Derrida notes this in referring to 'the paradoxes of the capital (national and European) and of capital (market economy, private enterprise and public enterprise) – today'.¹³ Perhaps the city, like the nation-state (as Derrida says elsewhere), might play a role in protecting its inhabitants from capitalism's excesses, of poverty and injustice. The 'capital' in the former sense might be thought as the place where it is precisely non-economic activities that flourish and need to be encouraged: 'If what we still call today the city consists less than ever of a petroglyphic erection, but just as much one in glass, windows, telecommunications cables, electrical and acoustical networks – 'there is an urgency to thinking the city by privileging in it the elementary (but renewed) media or speech, writing and music'.¹⁴

And finally from Derrida, the relationship of the city to politics in its democratic form, what Derrida refers to as the 'democracy to come': 'No democracy is yet given and present: every reflection on the future or the end (in the double sense of this term) of the polis should take note of this fact and should adjust itself to this'.¹⁵ Democracy, born of the city in the collectivity of the demos, reflects the city also in that it remains infinitely perfectible, open to its own future.

As an addendum to these reflections by Derrida, might be added also some of the writings of Andrew Benjamin (whose work is considered in more depth in Chapter Six). Benjamin argues that the city is originally a site of trauma, and trauma is associated (via Freud) with the act of constitution: 'rather what matters is the possibility of understanding the city and thus the urban field as having been, in part, constituted by repression and thus by a form of systematic forgetting. Within such a set-up, future occurrences – occurrences that may be the fact of invasion or acts of terror – rework what had hitherto been repressed and therefore allow for the presence of the traumatic. And yet, what was either forgotten or repressed can never simply just return. They cannot be recovered or remembered

¹¹ 'Generations of a City', p. 23.

¹² 'Generations of a City', p. 23.

¹³ 'Generations of a City', p. 26. One might add a critical note on this: doesn't the logic of infinite progress that Derrida insists is proper to the life of the city, rather comfortably align with a logic of capitalism (that Derrida otherwise critiques) as infinite development, growth, and so on?

¹⁴ 'Generations of a City', p. 27.

¹⁵ 'Generations of a City', p. 27.

through an act of will. What this suggests is that, as a constituting condition, the city will always have contained that which falls beyond the work of memory, if memory is thought to complete'.¹⁶ For Benjamin, 'Democracy is attended by the continual threat of 'civil strife' (stasis)'.¹⁷ Stasis in this sense means the never-settled nature of the city, the possibility of the (re)experience of trauma (shocks from within, events recalling the violent trauma of the origin). This permanent possibility of strife, or contest, is linked to the democratic. 'However, this is not the 'catastrophe' of nihilism. It is an event that occasions. The response voiced by the Furies – voicing the position of the old gods – is that while the democratic may have been enacted, democracy always brings with it that which will undo it.'¹⁸

Cities are the permanent site of trauma, forgetting, repression, strife and violence, in addition to the sedentary comfort they may provide. It is the nature of the democratic polis to remain the site of contestation and uncertainty, agon-istic and ever-changing. In thinking the city, it is necessary to recall these ontological tremblings, and not imagine that any city is a fixed, stable or unchanging entity. The trauma of the city is the possibility that it can always be figured, constructed and understood other than it presently is, including in its relation to other persons. (This refiguring of the city in relation to the *Oresteia* is taken up at greater length in Chapter Six).

The relationship of the city to democracy in the politico-philosophical tradition is not without importance here. Does hospitality depend upon a certain democratic impulse to greater openness or tolerance? What form of democracy? And why the dearth of democratically minded thinkers in the Western tradition, as Derrida asks in *Rogues* (recalling our discussion in Chapter One): 'why are there so few democrat philosophers (if there have been any at all), from Plato to Heidegger? Why does Heidegger remain, in this regard as well, still Platonic?'¹⁹ Related here is the Heideggerian interpretation of *dike* as gathering, adjoining and harmony, opposed by 'aligning justice with disjointure, with being out of joint, with the interruption of relation, with unbinding, with the infinite secret of the other'.²⁰ Heideggerian ontology, linked to a thinking of gathering, comes under Derrida's deconstructive gaze – an ontology of gathering may affect how a democracy does or does not function, how a city does or does not welcome.

Finally, the city needs to be thought in economic terms – that is, its relation to *oikonomia*, the laws of the household, considered in the previous chapter apropos of the State. Does the same determination apply to the City – do the laws of the household, the economic, hold sway, or delimit the capacity for refuge?²¹ Or does the indeterminate nature of the city as explored above, give reason

¹⁶ Benjamin, A., 'Trauma Within the Walls: Notes Towards a Philosophy of the City', in *Architectural Design*, Vol. 80, No. 5, September/October 2010, p. 27.

¹⁷ 'Trauma Within the Walls', p. 28.

¹⁸ 'Trauma Within the Walls', p. 28. The *Oresteia* is the explicit theme of Chapter Six.

¹⁹ Derrida, J., *Rogues: Two Essays on Reason*, Stanford: Stanford University Press, 2005, p. 88.

²⁰ *Rogues*, p. 88.

²¹ Cities are often portrayed as oppressive of humanity, as something to be escaped from, resisted or overturned. The novelist Saint-Exupery writes of leaving 'the cities and their accountants, and find a truth that farmers know' – in Saint-Exupery, A., *Wind, Sand and Stars*, London: Penguin, 2000, p. 97. This romantic or jaded critique of the city as the scene of petty calculation, the place of economic activity, is present in innumerable texts: another example, when Marlowe in *Heart of Darkness* returns to London and resents the sight of people hurrying through the streets to 'filch a little money from each other' (p. 114). The city on this view, is the ruinous capital of capital, the dystopian dwelling-place where *oikonomia* holds sway over everything, the true 'Heart of Darkness' (which is a shifting signifier in that extraordinary work, naming both the darkest reaches of an unnamed continent – presumably the Congo - and the dark heart of London back up the Thames from where Marlowe sits on a barge telling his tale.) See Conrad, J., *Heart of Darkness*, London: Penguin, 2000. This view might be linked to what is discussed below in relation to Levinas and Derrida – that the city, safe and plentiful,

to doubt that a city has determinable limits? This problem or tension, between the economic and a thinking of the an-economic, will be explored further below.

The City As Generosity?: the 'Just City' in Greek Thought

Plato's *Republic* is in part a meditation on the definition and necessity of justice. Socrates, discussing the nature of justice with Thrasymachus, says to him: 'Do you think that a city, an army, a band of robbers or thieves, or any other tribe with a common unjust purpose would be able to achieve it if they were unjust to each other?' (*Republic* I 351c). In order for a city to function, it must function *justly*, which to Socrates does not simply mean the 'advantage of the stronger', as it does for Thrasymachus (in the preceding conversation with Polemarchus he emphasises that a person cannot be just if they do harm to others, even their enemies). Just consideration for others is essential for the life of a city. But which others? *The Republic* includes many meditations on alternative forms of governance. Democracy would seem to be the most inclusive model (even if Plato does not laud democracy, but rather a system of elite philosopher-guardians), but in Athenian democracy, citizenship is highly circumscribed, belonging only to land-owning males, and excluding women, children and slaves. This would seem to be at odds with the notion that Zeus is the God of strangers who demands for them just treatment.²²

Aristotle in his *Politics* makes several references to the 'completion' of the city, as though such a thing were possible; for him there is a possible ideal state that is regrettably not realised. In both Aristotle and Plato this regret can be detected, and the same thirst for the ideal, the end point, a desire for the *telos*. But the fact that the ideal state never arrives could itself be seen as desirable and not at all regrettable. The exercise of power is considered a falling away from the ideal state, something to be avoided; in a totally ideal and just state, power would not need to be exercised; perhaps something similar is meant in Lenin's famous remark that after the completion of communism, a 'scullery maid' could run the state – that is, the exercise of political power would no longer be necessary. The desire for an ideal end of the city might be questioned, in keeping with the critique noted above of a city closing off on itself, the tyranny of the 'One'. Aristotle and Plato's attempt to limit citizenship and seeking any kind of end for a city, would be opposed to the idea of a city which must remain open and

potential site of refuge, derives its very plenitude from the darkness created elsewhere. Camus speaks of the 'cities of iron and fire' that are 'deaf to all secrets'; one might also think of the bureaucratic nightmares of Kafka, (who was himself a city office worker), where the city and its official processes challenge and confound him at every turn – indeed, the man who comes 'before the law' is from the country; or rural and island idylls that are juxtaposed with the pace and horrors of city life; the examples could be multiplied. Additionally, a Marxist critique might tackle cities as the sites par excellence of the accumulation of capital and its inequitable distribution, the locales of enormous corporations, the centres of global exploitation. There is force to all of these points of view.

But can the city not be thought differently than as monstrous, greedy or indifferent? Could we venture the provocation that perhaps a city, in its essence, is generosity? This sharing of space and resources, of systems, the potential for openness, change and hospitality. And that a city that closes over on itself, walls itself up, permits of no passage from the outside, is perhaps no longer even a city but a figure of death, invites upon itself the death that it had nevertheless sought to avoid (metaphorically represented with brilliance in Edgar Allen Poe's short story 'The Masque of the Red Death'; one might also recall again Derrida's brilliant meditations on the 'One' that by excluding others does violence to itself, in the text from *Archive Fever* cited above).

²² See Lloyd-Jones, H., *The Justice of Zeus*, Los Angeles: University of California Press, 1983.

changing; unless we understand their ideal city as a constant reference point rather than an actually desired goal, a Platonic Good, an ever-perfectible, evolving process.

For Derrida, openness and change are structural conditions of a properly functioning city. Yet in Aristotle there are references to the opposite: 'Therefore every state exists by nature, as the earlier associations too were natural. This association is the end of those others, and nature is itself an end; for whatever is the end-product of the coming into existence of any object, that is what we call its nature – of a man, for instance, or a horse or a household. Moreover the aim and the end is perfection; and self-sufficiency is both end and perfection.'²³ For Aristotle, there is an 'end' that is 'natural', and because it is from nature, man is a 'political animal'.

What is the end of the city, for Aristotle?²⁴ It is that which secures human happiness or good-fatedness, *eudaimonia*. 'Among all men, then, there is a natural impulse towards this kind of association'.²⁵ Political association for Aristotle is proper to the human being; it is that which enables the 'full development' of human life.²⁶ But human beings who are stateless fall outside of this schema; they are, on this account, less than fully human. To restore to them their human dignity requires that they be admitted to the city in order to fully realise themselves; but to enter the city they must be recognised as human beings already, that is, as distinct from 'Whatever is incapable of participating in the association which we call the state, a dumb animal for example[...]'.²⁷ Thus the need to recognise the 'Rights of Man' as an ethos of responsibility proper to the polis, prior to the instantiation of the 'Rights of the Citizen' for those who come from without; and also the importance of Levinas's troubling of the political with the ethical, that is, the recognition (counter to both Aristotle and Arendt) of the human qua human, prior to or independent of the recognition of their civic status, a moral claim upon the political, a signification of the ethical prior even to the *zoon politikon* – a responsibility for the other that precedes signification, but which enters into and conditions it.

Levinas and Cities of Refuge

Levinas defines the very act of dwelling in the following way:

To dwell is not the simple fact of the anonymous reality of a being cast into existence as a stone casts behind oneself; it is a recollection, a coming to oneself, a retreat home with oneself *as in a land of refuge*, which answers to a *hospitality*, an expectancy, a human welcome.²⁸ [emphasis added]

This phrase - 'at home as in a land of refuge' – forms a significant theme in the Levinasian-Derridian 'chiasmus' - each thinker emphasised this, in relation to the city. On their view it is proper to the being of being human, of the one who dwells, that this dwelling be also a kind of exile within one's own home, 'which answers to a hospitality...a human welcome.' The city, as a place of dwelling, is thus reconfigured as the place in which the human welcome is proffered to the other person.

²³ Aristotle, *The Politics*, London: Penguin Books, 1992, p. 59, 1252b30.

²⁴ For an extended treatment of this question, see Roochnik, D., 'Substantial City: Reflections on Aristotle's *Politics*'; , *Polis*, Vol. 27, No. 2, 2010, pp. 275-291.

²⁵ *The Politics*, p. 61, 1253a29.

²⁶ *The Politics*, p. 61, 1253a29.

²⁷ *The Politics*, p. 61, 1253a18.

²⁸ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 156.

Levinas is certainly a thinker of place – when he observes, apropos of Heidegger, that the *da* (there) of *da-sein* is already an ethical question²⁹, he draws attention to the placed-ness of the human being, the need to avoid the usurpation of the right of the other to live and appear - Arendt's thinking of the space of appearance, the *inter homines esse*, is of relevance on this point, but thought differently, as the giving-way qua giving-place to the other.

Levinas, in one of his Talmudic readings, discusses the idea of 'Cities of Refuge'.³⁰ The Biblical source for the idea of 'Cities of Refuge' is to be found in the Old Testament in Deuteronomy 4:41-44 and in Numbers 35, and it is the figure of the manslayer that is singled out for protection: 'then you shall select cities to be cities of refuge for you, so that a slayer who kills a person without intent may flee there.' (Numbers 35:11); this is reiterated in other parts of the Old Testament, and also in the Talmud (Makkot 10a). These were cities that were established by Moses to provide sanctuary for manslaughterers. Levinas writes that 'The 'avenger of blood' can no longer pursue the murderer who has taken refuge in a city of refuge; but for the manslayer, who is also a murderer through negligence, the city of refuge is also an exile: a punishment'³¹. We can hear an echo of this in the plight of asylum seekers that, even when they find themselves in a safe new society, are nevertheless exiled from their homelands; the difference being that they are not often manslaughterers but are themselves the victims.

What then can Levinas' example of 'cities of refuge' mean in the present day? The manslaughterer seems a curious subset of 'victim' to single out for protection; doubtless there are real cases of this scenario, but overwhelmingly it is simply victims of wars, persecution or economic hardship that constitute the majority of asylum-seekers. Levinas explains his use of this Old Testament figure by inverting it: that it is in fact the existing residents of the city who are the manslaughterers, that simply by being residents of cities and societies of plenty, we perhaps unknowingly participate in injustice that implicate us as the killers. He writes:

Are there not, somewhere in the world, wars and carnage which result from these advantages? [of the West] Without us others, inhabitants of our capitals – capitals certainly without equality, but protected and plentiful – without us others having wanted to harm anyone? Does not the avenger or the redeemer of blood 'with heated heart' lurk around us, in the form of people's anger, of the spirit of revolt or even of delinquency in our suburbs, the result of the social imbalance in which we are placed?³²

If advantage is derived from this injustice, there is perhaps a doubling of the injustice if that advantage is not shared with those who lack it. The city that can be a refuge may also be at the same time the perpetrator of oppression, a space from which both justice and injustice issues. (This will be discussed further in the next chapter, as the problem of a double-bind – that rich, wealthy societies are those most capable of supporting refugees, yet are also perhaps the guiltiest perpetrators of their plight, not to mention the idea of 'white man's burden' and attendant salvific implications that are extremely problematic).

²⁹ Levinas, E., *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 48.

³⁰ His religious writings were not strictly speaking politico-philosophical, but rather concerning Old Testament and Talmudic passages and themes, even if the tone or implication of the ideas presented is nevertheless philosophical – he insisted in interviews that all his thinking passed via the Greek tradition, that even when he discusses religious themes, he nevertheless thought in Greek.

³¹ Levinas, E., 'Cities of Refuge', in *Beyond The Verse*, London: Continuum, 2007, p. 39.

³² 'Cities of Refuge', p. 40.

Consequently, the identity of the manslayer is turned on its head in Levinas's analysis, but it remains a matter of protecting the other who comes from without, not only those within – man, and not just the citizen. The city of refuge as Levinas conceives of it, is a space that is opened not only to the other, but also *for* the other - not like a reservation on to which people are herded and kept in their place, but a place in which they can be fully fledged members and actively participate (quoting again): 'Life can thus mean only life worthy of the name; life in the full sense of the term: exile, of course, but no prison, no hard labour, and no concentration camp. Life which is life. The humanism or humanitarianism of the cities of refuge!'³³ That is, a City of Refuge should be a site that guarantees human dignity rather than mere survival, and the goods that are proper to such a dignity (on this point, Levinas is close to Aristotle, who sees the justification of the life of the city as that which provides what is necessary for a good life.)

Levinas writes of the difference between the heavenly and the earthly Jerusalem. This difference can be understood as heavenly versus man-made law, or perhaps justice versus law. In this context, it would mean the upholding of the rights of 'man' above and beyond the limitations of citizenship. For Levinas, even a holy city and a holy land are secondary to the concern for addressing the needs of the suffering other. Indeed, it is only in that they have that concern for the vulnerable other that a city can be considered 'holy', following the Levinasian thematisation of 'holiness' which pushes it beyond its religious connotations, is distinguished from the 'sacred', and becomes something of a corollary for the ethical. He observes that:

*Next to a person who has been affronted, this land — holy and promised — is but nakedness and desert, a heap of wood and stone*³⁴.

The 'heavenly' version is something like a messianic promise, the need to maintain constant awareness of the needs of others, a need which for Levinas is the message of the Old Testament: 'The Torah is justice, a complete justice which goes beyond the ambiguous situations of the cities of refuge. A complete justice because, in its expressions and contents, it is a call for absolute vigilance.'³⁵ For Levinas the heavenly city trumps the earthly city by higher calling – a dimension of principle or 'holiness' that is concerned with others.

Derrida takes up this theme in *Adieu*, when he discusses the distinction Levinas makes between the 'City of David' and the 'City of Caesar'; the 'City of David' would be that which is faithful to the messianic promise and the Torah-as-justice, an instantiation of ethical transcendence, in contradistinction to the earthly 'City of Caesar' concerned with power and money. Yet as Derrida points out, 'The border between the ethical and the political here loses for good the indivisible simplicity of a limit.' That is, the division between the heavenly city and the earthly city is not clear cut – one is always already figured in the other.³⁶ Derrida, in the language of urgency, points out however that this difference must be sharpened and the need to 'call out for another international law, another border politics, another humanitarian politics, indeed a humanitarian commitment that *effectively* operates beyond the interests of Nation-States.'³⁷

³³ 'Cities of Refuge', p. 42.

³⁴ Derrida, J., 'Adieu', *Adieu to Emmanuel Levinas*, Stanford: Stanford University Press, 1999, p. 4.

³⁵ 'Cities of Refuge', p. 46.

³⁶ 'A Word of Welcome', in *Adieu*, p. 99.

³⁷ 'A Word of Welcome', p. 101.

Oona Eisenstadt in an essay entitled 'The Problem of the Promise: Derrida on Levinas on the cities of refuge',³⁸ outlines a trenchant critique of Levinas's views on welcoming and hospitality by questioning his tendency to evoke the messianic nature of things, the heavenly city beyond the earthly city (which Derrida also seems to wrestle with at times in *Adieu*). For Eisenstadt, the heavenly city is granted too great a privilege; the 'problem of the promise' is the evoking of a higher hospitality, of something like a regulative ideal or trumping higher purpose. But when Eisenstadt says that it may be better to practice 'simple hospitality' in contradistinction to 'hospitality beyond hospitality' or 'complete justice' and rallies Derrida to her argument, she is ignoring an entire Derridian discourse on 'pure hospitality' which precisely helps in thinking about what is meant by hospitality in the conditional sense, which clarifies the concepts and underlines the impossibility of ever achieving 'pure' hospitality; Levinas's writings on the heavenly versus the earthly Jerusalem may be read in a similar way. This will be elaborated further along about what such a hyperbolic thinking – of the impossible beyond the possible, of principles beyond the limits of positive law – has to offer a thinking of these political questions.

Levinas once simply defined justice as: 'the relation with the other'³⁹, and more specifically, to the 'Third' – that is, when one has to choose between the competing interests of two parties in front of one (for if one only faces one other, one can choose to be totally responsible for them; it is the moment of choosing between 'incomparables' that is the moment of weighing and decision, and thus of justice – recall the famous image of justice holding the scales). The State might be seen as in this situation, in having to choose between the needs of 'man' and the needs of the 'citizen'. This problem will be returned to further below.

Derrida and Cities of Asylum

Like Levinas, Derrida also wrote about Cities of Refuge/Asylum, and also undertook practical action in this regard, in establishing places of residence for writers across the world via the International Parliament of Writers. Derrida explicitly links his understanding of the Cities of Asylum to Arendt's reflections on statelessness and the Rights of Man:

This [statelessness] is a phenomenon with a long historical sequence, one which Hannah Arendt has called, in a text which we should closely scrutinise, 'The Decline of the Nation-State and the End of the Rights of Man'. Arendt proposes here, in particular, an analysis of the modern history of minorities, of those 'without a State', the *Heimatlosen*, of the stateless and homeless, and of deported and 'displaced persons'...She does not speak of the city, but in the shadow of the two upheavals...she describes and which she situates between the two wars, we must today pose new questions concerning the destiny of cities and the role which they might play in these unprecedented circumstances. How can the right to asylum be redefined and developed without repatriation and without naturalisation? Could the City, equipped with new rights and greater sovereignty, open up new horizons of *possibility* previous undreamt of by international state law?⁴⁰ [emphasis added]

³⁸ Eisenstadt, O., 'The Problem of the Promise: Derrida on Levinas on the Cities of Refuge', *Cross Currents*, Winter, 2003, Vol.52(4), p.474.

³⁹ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 89.

⁴⁰ Derrida, J., 'On Cosmopolitanism', *On Cosmopolitanism and Forgiveness*, London and New York: Routledge, 2001, pp. 6-7 and p. 8.

Derrida recognises the 'utopian'-seeming nature of a City of Refuge, but sees the possibility of the reconfiguration of the meaning of the city in relation to refuge:

For let us not hesitate to declare our ultimate ambition, what gives meaning to our project: our plea is for what we have decided to call the 'city of refuge'. This is not to suggest that we ought to restore an essentially classical concept of the city by giving it new attributes and powers; neither would it be simply a matter of endowing the old subject we call 'the city' with new predicates. No, we are dreaming of another concept, of another set of rights for the city, of another politics of the city. I am aware that this might appear utopian for a thousand reasons, but at the same time, as modest as it is, what we have already begun to do proves that something of this sort can, from now on, function – and this disjointed process cannot be dissociated from the turbulence which affects, over the lengthy duration of a process, the axioms of international law.⁴¹

The Cities of Asylum are thus both a theoretical concept and a practical reality, at once utopian and pragmatic.⁴² According to Derrida, the idea of the city of asylum is to be found in many traditions, from the Old Testament (as seen with Levinas) to 'a certain Greek Stoicism', Pauline Christianity and the writings of Immanuel Kant, especially his article on *Perpetual Peace*⁴³. Derrida speaks of this concept of the city in terms reminiscent of a challenge, a provocation, a plea, and a call for new possibilities:

Whether it be the foreigner in general, the immigrant, the exiled, the refugee, the deported, the stateless or the displaced person (all of which categories need to be prudently differentiated), we would ask these new cities of asylum to reorient the politics of the state. We would ask them to transform and refound the modalities of membership by which the cité belongs to the state, as in a developing Europe or in international juridical structures still dominated by the inviolable rule of state sovereignty – an intangible rule, or one at least supposed such, which is becoming increasingly precarious and problematic nonetheless. This neither can nor should still be the ultimate horizon for cities of asylum. *Is this possible?* [emphasis added]⁴⁴

This question of possibility would seem to acknowledge that cities of asylum exist in part only as a provocation to rethink the concept of the city and the limits of welcome. The impossible never arrives as such, though whether this is in fact an impossible demand is a difficult question. For it happens that there are already Cities of Asylum, in the delimited form of the agreement with the International Parliament of Writers – cities that open their doors to writers that are persecuted in their own countries. However, the challenge from Derrida – that these cities might reorient the politics of the nation-state - is where the impossible rears its head, where the asylum-seeker finds themselves unavoidably before the law, with each guard more fearsome than the last. For it touches upon the essence of the power of the state – its sovereign right to self-determination – and therefore

⁴¹ 'On Cosmopolitanism', p. 8.

⁴² For a discussion of the utopianism of Derrida's ideas on this subject, see Kelly, S., 'Derrida's Cities of Refuge: Towards a Non-Utopian Utopia', *Contemporary Justice Review*, Vol. 7, No. 4, December 2004, pp. 421-439. Kelly takes the view that though utopian, there is evidence that the Cities of Refuge has begun to make progress on pragmatic grounds.

⁴³ Malabou, C., and Derrida, J., *Counterpath: Travelling with Jacques Derrida*, Stanford: Stanford University Press, 2004, pp. 111-112.

⁴⁴ *Counterpath*, p. 111.

invites its' fiercest resistance. *It is an ethical provocation of political power*, the unwritten or heavenly law coming to challenge the written, state-made law.

The 'Cities of Asylum' as developed by the International Parliament of Writers, is an extensive network that stretches around the world. In *Autodafe*, the Journal of the International Parliament of Writers, an impressive array of locations is listed in order to underscore that the notion of Cities of Asylum is not merely a utopian dream but an idea with demonstrable results in practice:

Five years after its creation there are thirty cities in this network (among them Barcelona, Berne, Blois, Caen, Frankfurt, Goteborg, Lausanne, Porto, Salzburg, Venice...). It extends into Latin America (Brazil and Mexico) and Africa (Senegal, South Africa, Nigeria); entire regions (bringing together several villages or districts as in the case in the Ile-de-France, Tuscany and Catalonia) declare themselves Asylum Areas, but there are also cultural centers, such as the Centre Pompidou in Paris that are members of the network. The International Parliament of Writers thus has been able to offer authors – Afghan, Algerian, Burmese, Chinese, Cuban, Iranian, Nigerian, Uzbek and Vietnamese – dozens of places they can live.⁴⁵

Why might it be necessary to protect writers in particular? Salman Rushdie (famously a literary exile from violent retribution and himself a founding member of the International Parliament of Writers) suggests in an essay titled 'A Declaration of Independence' that political power may be threatened by writing, as 'The creative spirit, of its very nature, resists frontiers and limiting points, denies the authority of censors and taboos'⁴⁶. The writer *resists frontiers and limits*, putting the authority of boundaries into question.

But echoing Derrida's similarly titled essay mentioned above, one might also say that the act of such independent writing threatens the auto-nomy of the nation-state, the law that it gives itself, its acts of self-founding, and that to challenge this entails forcing the state to manifest its authority and expose itself in its claims to a monopoly on violence. A violence that in some ways is employed simply to retain the right to use that violence. Walter Benjamin in his 'Critique of Violence' expresses this succinctly: 'the law's interest in a monopoly of violence vis-à-vis individuals is not explained by the intention of preserving legal ends but, rather, by that of preserving the law itself'.⁴⁷ The law, in this sense, is not legitimated by anything other than its own assertion, which may put it at odds with the demand for justice.

And why does Derrida speak of cities rather than states? He has a precise answer to this question: 'If we look to the city, rather than to the state, it is because we have given up hope that the state might create a new image for the city'⁴⁸. The suggestion is that there is something lacking in politics as determined by the modern system of nation-states, something that this system is failing to do. That it may be necessary to look to the city (forward or backwards?, forward to a new conception of the city, but also back to what cities used to be, cities that were outside of the state, for example Danzig in Europe; port cities, border cities, city-states and the like.) That these might constitute an interruption or even defiance of the nation-state system, as conceived in classical political theory, such as the aforementioned Article Three of the '*Declaration of the Rights of Man and the Citizen*': 'The principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any

⁴⁵ Salmon, C., 'The Parliament of a "Missing People"', *Autodafe*: Volume 1, Paris, 2000, p. 13.

⁴⁶ Rushdie, S., 'A Declaration of Independence', *Autodafe*, p. 92.

⁴⁷ Benjamin, W., 'Critique of Violence', in *Selected Writings Vol 1 1913-1926*, Cambridge: Harvard University Press, 2002, p. 239.

⁴⁸ 'On Cosmopolitanism', p. 6.

authority which does not proceed directly from the nation.’ Pure hospitality, and the direction in which Derrida would like to push the cities of asylum, is contrary to this normative claim about sovereignty which governs international relations.

But should the notion of Cities of Asylum be limited to writers? Is it possible to conceive of them more broadly, to shelter other vulnerable persons, and why is it necessary at the present time to thematise asylum in political-philosophical discourse? Derrida again: ‘In this way one opens a public space to words that are just and to the urgency of solidarity, but one also opens an asylum at a time when everything is being closed elsewhere, when every door is being bolted shut, every port, every airport is tightening its nets, where the nation-states of Europe, especially France, are turning their borders into new iron curtains’.⁴⁹ (One might mention in more recent times, and in contradistinction to this point, the extraordinary example of Germany among developed nations, not to mention those nations already bearing the vast majority of the burden, such as Greece, Turkey, Jordan, Chad and Ethiopia to name a few. The German example, and some others, are discussed more in the following Chapter.)

The law and political power as manifested in law and coercive powers of restraint are not a guarantor of the demands of justice. In order to be just, it may sometimes be necessary to oppose the law, or to engage in civil disobedience or other activity to make the state align as closely as possible with justice. Indeed, Derrida asks if an ethics of hospitality could ever actually found a law⁵⁰; or does it rather remain only a *possibility*, the permanent possibility of provocation of the law. There is a difference between justice as a hopeful ideal that can be used as a reference point to criticise existing practices and laws, and as something that can itself be reified into a law or statute. If it becomes codified, it risks ceasing to become an expression of justice but rather one of law, as is expressed succinctly by another writer in the International Parliament of Writer’s journal: ‘A right to transgression? But where is the transgression if there is a right authorising or tolerating it?’⁵¹. That is to say, that the just city can never be fully realised in the present, but remains always to come, always to be called for; it is neither a utopia to be one day finally achieved nor a chimerical hope to be dismissed, but a site of contestation (at once ‘earthly’ and conceptual) which in turn recalls the Greek origins of the polis, of the fundamental agon of the political as played out in the *Oresteia*. Justice and the city have this much in common: their structural incompleteness, the always yet-to-come of justice and the city, justice in the city, given by the city and necessary for the life of the city itself. The advantage of the idea of a City of Refuge or Asylum is that they never enter fully into approved, codified law that aligns with the state, but remain in active tension with it; this is in part the point, and thus criticisms of practical limitations of these cities vis-à-vis the state may miss their mark.

‘All the Churches of St Bernard in the world’

In 1996 in Paris, the Church of St Bernard became the symbolic – and all too real – staging ground of a politics of asylum issuing from the heart of the city. About three hundred immigrants of African origin (whose asylum-seeker applications had been rejected) had taken shelter in the church, yet were forcibly ejected by state authorities, provoking anger and demonstrations on behalf of the

⁴⁹ In ‘Derelictions of the Right to Justice (But What are the Sans-Papiers Lacking?)’ Derrida, J. (Rottenberg, E. ed.) *Negotiations: Interventions and Interviews 1971-2001*, Stanford: Stanford University Press, 2002, pp. 132-133.

⁵⁰ ‘A Word of Welcome’, p. 20.

⁵¹ ‘The Parliament of a “Missing People”’, p. 15.

'sans-papiers', yet within a broader context of a tightening of France's borders at that time. In 1997, the Debré Law was passed, instituting strict border control policy. Some of them were sent home while others were allowed to remain.⁵² A terrible phrase, 'crime of hospitality', was coined at the time, to which Derrida reacts with horror:

What becomes of a country, one must wonder, what becomes of a culture, what becomes of a language when it admits of a "crime of hospitality", when hospitality can become, in the eyes of the law and its representatives, a criminal offense?⁵³

Derrida interrogates another phrase in this context: 'sans-papiers'. In question here is just exactly what is 'lacking', what is the proper sense of the 'sans', what are the sans-papiers doing without? According to Derrida what they are lacking, precisely, is that the state they are in live up to its duties to hospitality and justice; it is in fact the state that is lacking, that is derelict in its fulfilment of the demands of justice. It is suggested that there is a certain hypocrisy on the part of neo-liberal states that allow passage of immigrants to meet their own economic needs, but when it is a matter of asylum, the emphasis often shifts to protectionism and punitive measures and indefinite detainment.

The attempt to seek refuge at the Church of St Bernard was thus in direct counterpoint to the prevailing political winds (and ultimately, law) of the time. Derrida commented that:

[...] in Israel, in Rwanda, in Europe, in America, in Asia, and in all the Churches of St. Bernard in the world – millions of "undocumented immigrants" [sans papiers]...call out for another international law, another border politics, another humanitarian politics, indeed a humanitarian commitment that effectively operates beyond the interests of Nation-States.⁵⁴

This is a call from a group of persons seeking asylum; their call, and Derrida's call, echoes Arendt's call from the 1940s, for a new political principle. What should the response be, of those who live within the city capable of providing such asylum? Derrida again:

We must also – as some of us have done – defy the government by declaring ourselves prepared to determine for ourselves the level of hospitality we choose to show the "sans-papiers," in the cases we judge appropriate, according to our conscience as citizens and, beyond this, our attachment to what they call, without believing in it, the *rights of man*. This is what is called civil disobedience in the United States, by means of which a citizen declares that *in the name of a higher law* he will not obey this or that legislative measure that he judges to be iniquitous and culpable, preferring thus delinquency to shame, and the alleged crime [délit] to injustice.⁵⁵

One might hear an echo of Antigone here. The higher law is that which comes to challenge man-made law, existing order; recall the earlier distinction noted from Levinas between the heavenly and the earthly Jerusalem. The Rights of Man are here invoked as that which is higher than the mythic, law-preserving violence; the rights of man would trump the rights of the citizen in an act of 'divine violence' and interruption - sovereignty is to be challenged, perhaps suspended, called into question

⁵² For a succinct summary of events, see note 5 to page 135 of Derrida, J., *Adieu to Emmanuel Levinas*, Stanford: Stanford University Press, 1997.

⁵³ 'Derelictions...', p. 133. This has arisen under a new name, but with the same accusation, as a 'Crime of Solidarity'. See <http://www.aljazeera.com/indepth/features/2017/01/france-prosecuting-citizens-crimes-solidarity-170122064151841.html>, retrieved 8/2/17.

⁵⁴ *Adieu*, p. 101.

⁵⁵ 'Derelictions...', p. 143.

or overturned. Two conceptions of *nomos* are opposed to one another in dialectical tension – the law of the city as self-preserving versus a higher law of respect of human dignity. Moreover, *nomos* as it relates to *oikonomia*, to the laws of the household and the right to self-preservation, is also called into question thereby.

In 2015 and 2016 in Australia, another iteration of this type of politics has emerged, that *in defiance of state sovereignty*, dares to offer asylum. In 2015, doctors and staff at several Australian hospitals refused to discharge patients who were to be returned to offshore detention, contrary to the policies of the Federal Government.⁵⁶ And in 2016, a nation-wide movement amongst an ecumenical coalition of churches emerged that offered ‘sanctuary’ within their walls in defiance of that same policy of offshore detention; this new coalition made explicit reference to the Old Testament tradition of refuge.⁵⁷

In these actions there is again the appeal to a higher law or principle, whether of God or of simple human dignity, or of international human rights covenants which are law without always having the force of law. What should be noted here is the possibility of different actors coming to embody the city of refuge – not just the leaders of that city (perhaps least of all them, if their politics accord with an acceptance of state sovereignty), but other actors – hospitals, churches, other organisations, even private individuals – reorienting the telos of the city on their own terms in a new form of micro-politics that nevertheless recalls ancient traditions. This is in contradistinction to the cities of asylum of which Derrida wrote, which were formal arrangements with the mayors of major cities. But who, ultimately, speaks for the city? This remains an open question.

Similar action occurred in 2016 when a deal was struck between the cities of Athens and Barcelona for the acceptance of 100 refugees then in Athens to be housed in Barcelona.⁵⁸ 100 refugees out of the total population in Greece is at most a nominal figure, another instance of gestural politics. But it indicates the possibility of the kind of outcomes that could be achieved by inter-city networks, apart from the state system, even if news reports have indicated the difficulties with this:

The one thing Barcelona cannot do for now is take in more refugees, as *it is blocked by bureaucracy at national level*. [emphasis added] On Wednesday, Barcelona Mayor Ada Colau sent a letter to the Spanish prime minister asking for official permission for the Catalan capital to accept 100 refugees now in Athens. "Barcelona could be hosting and welcoming some of these people - why couldn't we have an agreement between two cities to relocate (refugees)?" Colau asked, sitting beside Athens Mayor Giorgos Kaminis.⁵⁹

Cities of Asylum, to the extent that they seek to proffer direct asylum to asylum-seekers and refugees, remain transgressive, interruptive, provocative claims upon the broader polity of the state (which may not be unconnected from other issues – Barcelona provoking the Spanish government is certainly symptomatic of a broader struggle for possible secession). But these provocations recall the Levinasian dictum for an ethos of responsibility: that it is the relation to the other which determines the just (or not) nature of the state.

⁵⁶ <http://www.theage.com.au/victoria/royal-childrens-hospital-doctors-refuse-to-return-children-to-detention-20151010-gk63xm.html>, retrieved 20/2/17.

⁵⁷ <http://www.abc.net.au/news/2016-02-04/churches-offer-sanctuary-to-asylum-seekers/7138484>, retrieved 20/2/17.

⁵⁸ <http://www.catalannewsagency.com/politics/item/barcelona-reaches-an-agreement-with-athens-to-initially-host-100-refugees>. Retrieved 30/8/2016.

⁵⁹ <http://www.reuters.com/article/us-europe-migrants-cities-idUSKCN0WJ2BD>. Retrieved 30/8/2016.

There also now exist in the United States what are called ‘Sanctuary Cities’, that is, both states and cities that have laws or practices limiting the extent to which local authorities (police and others) are allowed to cooperate with Federal efforts to prosecute ‘illegal immigrants’. These include major cities such as New York, Chicago and Los Angeles. Laws or practices mean *de jure* or *de facto* – that either there are official rules in place pertaining to the provision of sanctuary, or they unfold unofficially as guidelines – a kind of informal resistance to authority, but one committed by a different set of authorities – local as opposed to state. According to recent reports, there are as many as twelve thousand ‘illegal’ immigrants being sheltered by this system.⁶⁰ Motivation for implementing practices of sanctuary cities can vary – from the practical (the desire of local authorities in areas of high immigrant populations to have the police be trusted, and thus a delimitation of deportation enforcement)⁶¹ to a more general solidarity with the immigrants, and support for their general context, including opposition to the conditions that have caused them to leave their countries.⁶²

This solidarity with refugees beyond state limits certainly represents a privileging of the Rights of ‘Man’ over the ‘Citizen’. What is defended is their needs and status, their dignity, *qua* human beings, in defiance of a state that sees them simply as non-citizens. This form of politics, impossible by the lights of the nation-state, is in evidence all over the globe, from Melbourne, to Athens, to Barcelona, to Los Angeles; a new politics of possibility is being not only articulated but enacted.⁶³ These novel arrangements might well constitute one workable, meaningful form of the ‘newly defined territorial entities’ that Arendt saw as necessary to the guarantee of human dignity, where belonging is reconfigured as signifying residency or membership of a city as opposed to a state.

Conclusion

Despite these efforts and the calls for (and enacting of) Cities of Refuge and Asylum and Sanctuary, the primacy of state sovereignty remains. In practical terms one must acknowledge the difficulty and indeed impossibility of challenging the Westphalian model at the present moment (even as capital moves unchecked, persons, especially persons from the developing world, cannot); all of the efforts discussed above, while laudable, remain marginal efforts, highly limited in terms of their scale and applicability, in proportion to the global population of concern. How to negotiate this difficulty? Is it possible to expand this effort, to effect a rapprochement between the idea of the City of Refuge, and of the modern nation-state? It would then be necessary to ask of the Cities of Refuge what kind of *ethos* would govern such a city, such a practice of cities, within the context of states.

What is the *telos* of the city? Is it bound up with human dignity, or does it proceed from self-interest? This question is perhaps unanswerable, and a moral response can only be asserted – nothing

⁶⁰ See <http://www.nytimes.com/interactive/2016/09/02/us/sanctuary-cities.html>, retrieved 5/9/2016. These sanctuary cities have taken on increased significance in the context of the new administration’s determination to engage in mass deportations.

⁶¹ See <http://www.vice.com/read/sanctuary-cities-donald-trump-immigration-plan>, retrieved 5/9/2016.

⁶² See Mancina, P., ‘The birth of a sanctuary-city: A history of governmental sanctuary in San Francisco’, Chapter 14 of *Sanctuary Practices in International Perspectives: Migration, Citizenship and Social Movements*, Oxon: Routledge, 2013.

⁶³ Many other examples of sanctuary found in specific cities at different times can be thought in this context. See for example the specific history of Jews who found refuge in Shanghai in the Second World War (‘the only city in the world that did not require a visa’), in Heppner, E.G., *Shanghai Refuge: A Memoir of the World War Two Jewish Ghetto*, Lincoln: University of Nebraska Press, 1995.

'proves' a moral or ethical claim. But if the city can be *posited* as aligning with a sense of responsibility for the other person, then the negotiation and weighing of interests – that is, the movement of justice (recall the definition of justice from Levinas given previously, 'the relation to the other', or to the third – the weighing of competing interests) – between man and the citizen, should perhaps accord with Arendt's call for a guarantee of human dignity, and thus fall upon the side of 'Man' – and constitute a lesson to the state. Such a grace-note can issue from Cities of Refuge, suspending, if just for a moment, the dominance of the state – a gesture that will, however, remain (for the moment) to be negotiated with the demands of state sovereignty. Perhaps the best that can be hoped for from Cities of Refuge or Asylum, is just this – a politics of gracious interruption. It may serve as an example to the state, reconfiguring the telos of state identity as a modality of responsibility, or at least recalling the state to the *possibility* of such a self-identity, beyond realism and all the logics of calculation in the world which risk reducing the other to just that – another number in a calculus, and rather engender a different *ethos of the state*. A grace-note in the name of human dignity would restore each vulnerable suppliant to their uniqueness in the eyes of the law and thus the possibility of a just response. This theme will be returned to in Chapter Six.

The Cities of Asylum or Refuge are one possible response to the plight of the stateless and the Arendtian call for a new guarantee of human dignity, where states are unwilling or unable to provide such a guarantee, which is often the case at present. The theme of the just city, where solicitude towards the vulnerable suppliant operates as the telos of the state, will be returned to in Chapter Six when a reading of the *Oresteia* is examined in this context, and the city in question is Athens, as it is convened in the form of a tribunal to decide the fate of Orestes, with Athena presiding.

However in the next chapter an exploration of the Levinasian-Derridian theses pursued throughout will be targeted precisely at the sovereign state, to ask: if the possibilities of asylum are to remain in general bounded by the state, what then are the limits of the state, of any one state or a number of states in consort, to provide such asylum? What conception of moderation or *ethos* of welcome should obtain here? And, most radically: is it *possible* that one single nation could, at a stretch, absorb the entire global population of concern? That is to say, what are the limits of possibility in the context of the state – is it possible to attempt the seemingly impossible – that a welcome, without limit or measure, can take place?

CHAPTER FIVE – TESTING THE LIMITS PART TWO: THE NATION-STATE, OR – FRANCE ALONE!

France is charged with representing the cause of humanity. – Ernest Lavisse

Introduction

To restate an overarching question: how is it possible to guarantee the dignity of human beings who have lost their rights as citizens of a state? The tension discussed in the Introduction and Chapter One between the Rights of Man and the Citizen, where ‘man’ and ‘citizen’ are not necessarily coterminous, requires a negotiation between stateless persons and the nation-state, in that an international order still largely bounded in political practice by the Westphalian model of sovereignty requires the guarantee of rights to be achieved via that system. In the previous chapter, a response to this as a challenge or interruption state sovereignty was explored via Cities of Asylum.

In this chapter and the next, two polities will be examined which made overt reference to an ethos of responsibility as constitutive of their body politic – France from the time of the Revolution, and Ancient Athens. Nietzsche called the state the ‘coldest of all cold monsters’¹, but in their self-image, these polities proclaimed themselves to be more than this, and cloaked themselves in the mantle of generosity towards strangers. What are the appeals to a welcoming politics of asylum that these polities made? What was the basis of those appeals? What is or has been the gap between their claims to a welcoming posture, and actual political practices? This analysis is important for the present argument, as the exploration of what a political ethos of responsibility entails putting in question just what the *raison d’être* of a state is or should be - can it be conceived of as a form of justice, understood as meeting obligations towards stateless persons?

The state from which the Declaration of the Rights of Man and Citizen issued in 1789, France, has been selected for a number of reasons, both symbolic and practical. Firstly, because it has a tradition of political hospitality and humanitarianism embodied in that famous Declaration and subsequent political and theoretical explorations, a tradition that largely set the politico-philosophical context for the themes at issue here; secondly, because it provides some historical examples of this tradition, moving from theory to praxis; thirdly, because the French politics of hospitality is powerfully present in the discourses of two of the key thinkers in this thesis, Levinas and more especially Derrida.² Here the thinking of the previous chapters is continued: what would it mean for the state, in this case France, to modify its approach to political hospitality by on the one hand, a phenomenological turn to approaching the problem of refugees on its ‘Face’, that is in consideration of actual vulnerable humanity in their facticity and not simply as numbers; secondly, and even more decisive, how to negotiate that unavoidable problem of numbers – the limits of welcome - once the need for an ethical response has been decided. Negotiation is a theme Derrida often emphasised (as discussed in Chapter

¹ Nietzsche, F., ‘Of the New Idol’, in *Thus Spoke Zarathustra*, London: Penguin Books, 1969, p. 73.

² For Levinas, the idealism evinced in the Declaration is necessary, in counter-point to societies that emphasise raw power like the Nazis: ‘[...] the value of European civilization consists incontestably in the aspirations of idealism, if not in its path; in its primary inspiration idealism seeks to surpass being. Every civilisation that accepts being – with the tragic despair it contains and the crimes it justifies – merits the name “Barbarian”’. From Levinas, E., (Introduction Rolland, J., Trans. Bergo, B.) *On Escape*, Stanford: Stanford University Press, 2003, p. 73.

Three), and the negotiation of limits – and the question of what those limits are or should be – will be broached here. As has been seen, Derrida prevaricated on the topic of hospitality – both acknowledging the need to negotiate and calculate, while also seemingly pointing to a horizon of unconditional hospitality ('let us say yes' to everyone and everything).

This chapter outlines an attempt to rethink the practical limits of political hospitality in a novel way. Richard Kearney, in his book *Strangers, Gods and Monsters*, poses the standard question: 'What is to be done?'³, but to good purpose: he challenges theorists who are interested in the political implications of philosophers like Levinas and Derrida to provide a hermeneutical bridge from their hyper-ethical, messianic claims to concrete political *praxis*. How do, or how can the political gestures within such philosophical work become operative? Following on from the theoretical outlay provided in the first three chapters, and the elaboration of these possibilities in regards to Cities in Chapter Four, this chapter explores how this thinking can get to work in this chapter in relation to the nation-state. Some novel approaches – including a discussion of French tradition of refuge, and of the Ancient Greek figure of the 'Metic' – are used to explore what the messianic promise of Levinas-Derrida might look like as pursued in a spirit of *negotiating the unconditional in a conditional context*. Derrida once observed that one can 'choose one's heritage' – that is, deconstruct that heritage in a manner that reveals the limitations of the tradition, in order to orient that tradition according to the demands of justice.⁴ The notion of heritage in relation to practices of hospitality is of central importance in what follows.

As discussed in earlier chapters, a critique of justice-as-moderation has been put forward in relation to Aristotle. That moderation should set the limit to an ethical response, is a postulate which is put radically in question by both Levinas and Derrida – in Levinas, by reference to the infinite demand that the other places upon the subject as a responsibility, and in Derrida, by reference to an experience of the impossible where a calculable decision in relation to an ethical question is not always achievable. There is thus a need to think the ethical beyond the bounds of moderation, and its concomitant, reciprocity, and to put into question the privilege granted to appeals to moderation – be they genuine, or acting as a fig-leaf for what is in fact mean-spiritedness (and a certain difficulty arises in distinguishing these types of appeals from one another). But what needs to be recalled in this context, referring back to a theme that emerged in the discussion of Levinas in Chapter Two, is that it is necessary to consider the *possibility* that in ethical questions, it may be necessary to go past the moderate and reciprocal, to engage in exorbitant, one-sided acts of hospitality, in order to safeguard human dignity. Aristotle suggests in the *Politics* that 'it is reciprocal equivalence that keeps a state in being'⁵; here he is referring to his *Nicomachean Ethics*, where the Temple of the Graces reminds citizens to requite good acts with good acts in a circle of virtuous reciprocity.⁶ Aristotle is not, to be sure, a political theorist who has made pronouncements about refugees⁷; thus, marshalling him in this context is an interpretive act. Rather what is at stake is a certain logic, *a mode of thinking the political and its relation to justice*, and how that logic might enter into the politics of asylum.

³ Kearney, R., *Strangers, Gods and Monsters: Interpreting Otherness*, New York: Routledge, 2009, p. 100.

⁴ See Chapter One, 'Choosing One's Heritage', in Derrida, J., and Roudinesco, E., (trans. Fort, J.) *For What Tomorrow...A Dialogue*, Stanford: Stanford University Press, 2004.

⁵ Aristotle, *The Politics*, London: Penguin Books, 1992, 1261a22, p. 104.

⁶ Aristotle, *The Nicomachean Ethics*, London: Penguin Books, 2004, 1133a, p. 124.

⁷ One may consult the *Politics* on the topic of foreigners for a general sense of Aristotle's views, though not on the politics of asylum. For an interesting discussion of Aristotle's view of foreigners, which, against the grain of much commentary, dissociates Aristotle's view of nature from his view of foreigner (and recapitulates those views in relation to political practice) s, see Frank, J., 'Citizens, Slaves and Foreigners: Aristotle on Human Nature', *The American Political Science Review*, Vol. 98, No. 1 (Feb. 2004), pp. 91-104.

The argument is not that moderation and reciprocity are simply wrong; but rather, that they should not set the limit to an ethical response. There are cases where an ethics of reciprocity would be a just outcome in a situation involving stateless persons. For example, at present, the lack of a legal right to enter a state by asylum-seekers, who have only a right of non-refoulement under international law, means that front line states – often developing as opposed to developed states – shoulder an unfair proportion of the protection obligation. A right of entry would enable a greater sharing of the obligation, and thus is an argument in favour of reciprocity.⁸

It is arguable that the current modes of hospitality towards refugees on the geo-political level are extremely miserly and governed by what can be called the ‘calculus of moderation’. By this is meant the purported practical limits of welcome and hospitality that nations and governments claim condition their responses to need. These claims should not be accepted without critical scrutiny; they can and should be rigorously questioned, and alternatives proposed along the lines of a proper assessment of what an accurate picture of moderation is – that is, beyond political and perceptual configurations, *what are the actual practical limits of welcome?* And should even these limits, in times of humanitarian crisis, set the criterion for judgment in relation to asylum? Two examples of an appeal to moderation, which is to say, the delimitation of excess, the policing of limit – one from a French politician, another from a French writer – are interrogated below in relation to this point, in order to put into question, recalling Adorno’s phrase cited in the Introduction, ‘the doctrine inculcated since Aristotle that moderation is the virtue appropriate to reasonable people’.⁹

In this chapter the practical limits of hospitality are interrogated via a thought experiment, wherein the scenario of France – alone - taking responsibility for all of the displaced persons in the world is posited. There are economic aspects to the argument, but this is not a chapter on economics – rather, as has been seen, the very notion of economy and its relation to hospitality needs to be put in question; that is, in the context of political asylum, the political utilisation (and manipulation) of the economic theme of *scarcity* – the idea that there are unlimited human needs and wants but only limited resources to meet them¹⁰. Rather than a practical outlay of positive solutions, the thinking pursued here is intended to situate a practical concern within a set of theoretical problems relating to the limits of welcome. One can question the extent to which scarcity exists on the national level (in the context of political hospitality), as opposed to the level of the household, a metaphor which is often used, incorrectly, to articulate the nation-state’s capacity to be generous. *Interrogation of the limit* – that is the overriding concern here.

Asylum in France

What is the political tradition of refuge in France? Greg Burgess, in a significant work on the subject, tracks the history of asylum in France from the revolution in 1789 into the mid-Twentieth Century. He notes that Enlightenment ideals concerning natural rights entered into the realm of the political via the Declaration of the Rights of Man in August 1789, which he links to statements by thinkers like Hugo Grotius and (below) Christian Wolff:

⁸ For a discussion of the international law aspects of this issue (which is not a philosophical discussion in terms of reciprocity, however) see Stoyanova, V., ‘The Principle of Non-Refoulement and the Right of Asylum-seekers to enter State Territory’, *Interdisciplinary Journal of Human Rights Law*, Vol. 3, No. 1, 2008, pp. 1-11.

⁹ Adorno, T., *Minima Moralia: Reflections from Damaged Life*, London and New York: Verso Books, 2005, p. 139.

¹⁰ Sickle, J.V.V. and Rogge, B., *Introduction to Economics*, London: MacMillan and Company, 1954 (1sted), p. 3.

By nature the right belongs to an exile to dwell anywhere in the world. For exiles do not cease to be men because they are driven into exile ...Therefore, since by nature all things are common ... by nature the right belongs to an exile to live anywhere in the world.¹¹

France, which saw itself in the vanguard of resistance to oppression, thus took as a founding principle the notion of itself as a *terre d'asile* – land of asylum - for oppressed peoples everywhere.¹² The leading figures of the French Revolution attempted to inscribe in the new Republic a set of universal principles, which, in Kant's phrase from his remarks on the Revolution in *The Conflict of the Faculties*, 'permits people to hope for progress towards the better'.¹³ The Declaration of the Rights of Man and Citizen provided principles of political legitimacy for the Republic that would be applicable not only to France, but be addressed to all of humanity. There is a deliberate attempt to put principle into practice, in the words of Robespierre: 'Morality used to be in philosophers' books; we have put it in the government of nations.'¹⁴ This discourse unfolds at a time of the apotheosis of Eighteenth Century cosmopolitan universalism, when an international group of visitors to the National Assembly press for their right to participate in the 1790 anniversary celebration of the storming of the Bastille.¹⁵

In the context of asylum, France cultivated an overt ethos of responsibility since the time of the Revolution; that is, it made an articulation and appeal to a politics of asylum, that other states might only take on as a pragmatic task, without formalising their approach. Historian Peter McPhee observes: 'Before the Revolution, refugees had been accorded refuge of sanctuary 'by the King's Grace'. Now the universalism embedded in the Declaration generated a key transition to a generalized right of asylum.'¹⁶ The revolutionaries intended the values of the Republic to apply to all humanity, and not just France, as Robespierre puts it: 'I have regarded it [the Declaration of the Rights of Man and of the Citizen] as a body of judicial axioms at once universal, unchangeable, and imprescriptible, intended to be applied to all mankind.'¹⁷ The Revolution proceeded from a unity based in the opposition to external oppressors, and thus asylum is politicised: 'The family of French legislators is the homeland; it is the human race as a whole, less the tyrants and their accomplices.'¹⁸ In consequence, 'The men of all countries are brothers, and different peoples should help each other to the best of their ability, like citizens of the same state.'¹⁹ And these expansive sentiments were even codified, as in the 1793 Constitution, which states: 'They give asylum to foreigners who, in the name of liberty, are banished from their homelands'²⁰; it also gives a very wide-ranging definition of citizenship. Alain Badiou quotes that definition to the effect that 'whenever a man took in and raised an orphan, anywhere in the world, well, just by doing so he acquired French nationality.'²¹ Badiou's

¹¹ *Refuge in the Land of Liberty*, p. 1.

¹² *Refuge in the Land of Liberty*, p. 4.

¹³ Kant, I., 'The Philosophy Faculty Versus the Faculty of Law', in *The Conflict of the Faculties*, New York: Abaris Books, 1979, p. 153.

¹⁴ Zizek, S. (introduction), Ducange, J. (text selection and annotation), Howe, J. (trans.), *Slavoj Zizek Presents Robespierre: Virtue and Terror*, London and New York: Verso, 2007, p. 93.

¹⁵ McPhee, P. *Liberty or Death: The French Revolution*, New Haven and London: Yale University Press, 2016, p. 102.

¹⁶ *Liberty or Death*, p. 103.

¹⁷ McPhee, P., *Robespierre: A Revolutionary Life*, New Haven and London: Yale University Press, 2012, p. 92. See also p. 150 – when Robespierre published his own draft Declaration, it was a restatement of his internationalism and universalism.

¹⁸ *Slavoj Zizek Presents Robespierre*, p. 47.

¹⁹ *Slavoj Zizek Presents Robespierre*, p. 68.

²⁰ Text of the 1793 Constitution can be found at <https://chnm.gmu.edu/revolution/d/430/>, retrieved 5/2/17.

²¹ Badiou, A., and Finkielkraut, A., *Confrontation*, Cambridge and Malden: Polity Press, 2014, p. 8.

recollection is slightly off – citizenship is granted to those foreign-born persons who have resided in France for at least one year, and do one of a number of things: adopt an orphan, support an elderly person, and so on – but to support Badiou’s point, the text ends the definition of citizenship by encompassing ‘Finally, every foreigner who is considered by the legislative body to be deserving of being treated humanely.’²² This would, in formal terms, seem to represent a remarkable openness to all of humanity.

Burgess charts the varying fortunes of this idealism as it met with political and social challenges. For example in the 1930s, Burgess notes the comments of a British observer, that France was the nation par excellence of refuge in Western Europe, and that the French people cherished the ideal of the right of asylum for refugees.²³ (Though not all French people felt this way, as will be seen further on in this chapter, in relation to the derision attached to foreigners as *Métèques*). Yet it is also true that during this period, both left and right political parties were divided as to how this shared principle of asylum should be exercised in practice.²⁴ And even at the time of the 1793 Constitution, Robespierre himself started to doubt the wisdom of refuge, as he suspected the presence of foreign saboteurs amongst those admitted to France.²⁵

‘All the wretched poverty of the World’

In an address delivered at the Sorbonne in 1882, Ernst Renan asked: ‘What is a Nation?’ In quick order he dismisses several possible predicates of the nation: it is, for him, neither bound up with race, nor language, nor shared interest, nor religion, nor is it even delimited by a geographical principle. He summarises it as a community of ‘moral conscience’: ‘A great aggregation of men, in sane mind and warm heart, created a moral conscience that calls itself a nation.’²⁶

This notion of a nation being coterminous with a community of moral conscience aligns with the Republican ideal of providing shelter for asylum-seekers; the ‘nation’ of the nation-state of France is beyond the normal predicates of nationality, on this interpretation – language, ethnicity, religion and so on – and recast in a modality of responsibility, a shared ‘moral conscience’.²⁷ (This recalls Levinas’s reflections upon the importance of *Fraternité* in the motto of the Republic, as discussed in Chapter Two). Yet what should the limits of this moral conscience, this sense of ethical responsibility (and thus, perhaps a form of irresponsibility in relation to limits) be? In a very short text titled ‘The Principle of Hospitality’ (which is in fact an interview from *Le Monde*) collected in the book *Paper Machine*, Derrida is asked about the prospect of France taking in ‘all the wretched poverty of the world’:

LE MONDE: Some years ago now, Michel Rocard said, "France cannot take in all the wretched poverty of the world." What does this statement suggest to you? What do

²² <https://chnm.gmu.edu/revolution/d/430/>, retrieved 5/2/17.

²³ *Refuge in the Land of Liberty*, p. 143.

²⁴ *Refuge in the Land of Liberty*, p. 143.

²⁵ *Robespierre: A Revolutionary Life*, pp. 172-173.

²⁶ “What is a Nation?”, text of a conference delivered at the Sorbonne on March 11th, 1882, in Renan, E., , *Qu’est-ce qu’une nation?*, Paris: Presses-Pocket, 1992.

²⁷ Jacob, W., ‘An Alternate Nationalism: A Comparative Study of B.R. Ambedkar and E. Renan’, in Burbick, J., and Glass, W. (eds.) *Beyond Imagined Uniqueness: Nationalisms in Contemporary Perspectives*, Newcastle: Cambridge Scholars Publishing, 2010, p. 134.

you think of the way that Lionel Jospin's government is currently working toward a partial granting of official status to illegal immigrants?

DERRIDA: I seem to remember that Michel Rocard withdrew that unfortunate phrase. Because either it's a truism (who ever did think that France, or any other country, has ever been able to "take in all the wretched poverty of the world"? Who has ever asked for that? Or its rhetoric is that of a joke meant to produce restrictive effects and to justify cutbacks, protectionism, and reactionary attitudes ("after all, since we can't take in all the wretched poverty, don't let anyone ever reproach us for not doing enough, or even for not doing it at all any more"). This is presumably the effect—the economic, economistic, and confused effect—that some people sought to exploit, and that Michel Rocard, like so many others, came to regret.²⁸

As discussed in Chapter Three, Derrida was capable of a certain hyperbole on the subject of hospitality, suggesting that 'yes' should be said to 'who or what turns up' – a condition-less preliminary affirmation of the other person, which will afterwards have to be negotiated. Thus when Derrida asks who did think that France can take in everybody, a possible rejoinder is to say that it was precisely him! But as has been explored, Derrida does not call for simple irresponsibility, but rather *negotiation* between the conditioned and the unconditioned. In response to exclusionary 'economistic' rhetoric masquerading as responsibility (an exorbitant claim about what France might do, marshalled as an excuse to do precisely nothing), Derrida in the same interview responds with a call for 'another kind of politics':

Hence the anxiety of those who, without ever asking for a straightforward opening up of the frontiers, have argued for another kind of politics, with figures and statistics to support this (based on methods tried out by experts and relevant associations, who have been working in the field for years). And they have done this "responsibly," not "irresponsibly," as I believe one minister had the nerve to say—one of the sort who nowadays (and it's always a bad sign) make carefully controlled little slips. The decisive limit, from which a politics is judged, comes somewhere between "pragmatism" and even "realism" (both indispensable for an effective strategy), and their dubious double, opportunism.²⁹

As a thinker of the impossible, for Derrida it is nevertheless essential to work out a practical politics in regards to refugees, 'with figures and statistics', and 'responsibly', 'without ever asking for a straightforward opening up of frontiers', even one tied to 'pragmatism' and 'realism'.

It is not the task of political theory or philosophy to present a determinable program of political action to political actors, in the manner of a Platonic philosopher-king. But it might be the task of theory to sketch the contours of what an *ethos of responsibility* could look like in actuality, and provide *criterion for judgment* - how *theoria* enters into *praxis* - that is to say, to explore the potential of a thinking of the possibility of the impossible, the Levinasian-Derridian *pas-de-deux*, for a practical politics of asylum.

A thought-experiment of the kind proposed here risks lapsing into (or being misunderstood as) a form of positivism, wherein determinate truth claims are subject to verification – hardly in the spirit of the indeterminate possibilities and impossibilities of deconstruction! A reference to

²⁸ Derrida, J., 'The Principle of Hospitality', in *Paper Machine*, Stanford: Stanford University Press, 2005, pp. 68-69.

²⁹ 'The Principle of Hospitality', p. 69.

Heidegger is useful here – even if the reflections of Levinas proceed in opposition to Heidegger, one might, to borrow Habermas’ formulation, *mit Heidegger gegen Heidegger denken* – think with Heidegger against Heidegger.³⁰ The triumph of positivism – the conversion of philosophy and understanding of the world into a kind of science – was already diagnosed acutely by Heidegger in ‘The Age of the World Picture’: ‘The scholar disappears. He is succeeded by the research man who is engaged in research projects.’³¹ This is because under the domination of science, the world has been converted to ‘picture’ and the human into *subjectum* – and this scientific ‘[...] defining is accomplished through measuring, with the help of number and calculation.’³² As such, the human enters into the calculable, as the executor of the calculation (but in certain contexts, also its datum): ‘There begins that way of being human which mans the realm of human capability as a domain given over to measuring and executing, for the purpose of gaining mastery of that which is as a whole.’ But paradoxically, the age of the world-as-picture and man-as-*subjectum*, produces the opposite of calculation in that as soon as it ‘becomes a special quality’, it becomes incalculable: ‘This becoming incalculable remains the invisible shadow that is cast around all things everywhere when man has been transformed into *subjectum* and the world into picture.’ A different type of thinking to positivist science is required to understand what ‘[...] lends to the incalculable the determinateness peculiar to it... Man will know, ie. carefully safeguard its truth, that which is incalculable, only in *creative questioning* and shaping out of the power of genuine reflection.’³³ [emphasis added]

No rendering of an exact number or calculation, even of ‘gigantic’ numbers proper to the age of the ‘World Picture’, can be given in the context of the politics of asylum; the ‘economistic’ appeal to a totalising calculation is a hollow ruse on Rocard’s part which Derrida rightly denounces. The limits of hospitality will always remain an interpretive question, bound up with the negotiation of specific demands in mobile contexts where measure and meaning are ultimately incalculable and non-objectifiable - for man as a post-Cartesian datum of ratiocinations and self-understanding, thus understood betrays his own freedom: ‘The modern freedom of subjectivity vanishes totally in the objectivity commensurate with it.’³⁴ This is why Levinas and Derrida are true heirs of Heidegger (despite their significant reservations towards him): their understanding of ethics and the subject is post-Kantian in that the understanding of *Dasein*, the human being, is not understood only with reference to reason or the Cartesian cogito, but rather has to be understood as the there-being or being-there of the human in the world, whose position and attributes are not limited to self-reflection or a positivistic understanding of the ‘true’ nature of reality. This enters into the an-economistic tendencies in their thought which have been traced throughout, where they resist the idea of the human subject being reduced to the object of a calculation, to ratiocinations and signification.³⁵

Nevertheless, it remains the case that the gigantic numbers of displaced persons give on to a seemingly incalculable task that must nevertheless be calculated to some extent (while not being reduced to calculation), or using Heidegger’s language, be *creatively questioned* – which is how the

³⁰ Quoted in Moses, A.D., *German Intellectuals and the Nazi Past*, New York: Cambridge University Press, 2007, p. 117.

³¹ ‘The Age of the World Picture’, in Heidegger, M. (Trans. Lovitt, W.) *The Question Concerning Technology and Other Essays*, New York: Harper and Row, 1977, p. 125.

³² ‘The Age of the World Picture’, p. 119.

³³ ‘The Age of the World Picture’, p. 136. One cannot help but note here the proximity of this thinking to the thinking of Adorno, despite the latter’s sustained antipathy towards Heidegger.

³⁴ ‘The Age of the World Picture’, p. 153.

³⁵ These reflections are extended in the Conclusion via a discussion of the Frankfurt School, who seem to me to be on many points in close proximity with Levinas, in the shared emphasis on the one hand of post-Holocaust ethical thinking, and on the other in a resistance to economistic, moderate or positivistic thought.

present argument proceeds. It is a matter of determining the contours of an *ethos of responsibility* as discovered in situation³⁶, to pose questions as to the nature and limits of this responsibility. This pertains explicitly to the responsibilities of the developed world. It is routinely states in the developing world that host and care for significant populations of displaced persons – that is, states who have far less capacity to do so.³⁷ In terms of elementary fairness, the distribution of responsibility in the current international order is radically distorted, wherein the poorer nations must do the most to help.

Consequently, it can be asked: what are the responsibilities of the developed world? In an op-ed in the *New York Times*, Italian Prime Minister Matteo Renzi argued that the obligation to help refugees arriving in Europe should be shared³⁸; Italy, on the front-lines of reception of refugees given its location on the Mediterranean and proximity to Libya (from where so many refugees depart), for a year shouldered the most significant burden in terms of rescuing refugees from sea. His point was that this was too much for any one state, and indeed Mare Nostrum was grudgingly terminated after a year, in the face of European refusal to contribute to the program, which was replaced with a much less expansive EU operation.³⁹

Thus, international responsibility-sharing among developed-world states is one means of addressing the *ethos* of responsibility. It could be posited that the total population of concern – 65 million people at present – remains a small number which could be distributed, for example, amongst only the members of the OECD – which is to say, for the most part prosperous and relatively stable democratic states. This would present significant challenges – logistically, and in the potential for the creation of a pull-factor of opportunistic migrants where the total number would thereby grow, and even bespeaks a certain naiveté – that refugees can be reduced to a biopolitical mass that is moved around the globe at the whim of powerful states.⁴⁰ *But human beings in refugee camps have already been reduced to a biopolitical mass* – they have lost worldliness in the Arendtian sense, as they are refused the space of appearance⁴¹ which would secure their dignity (the space of appearance in the camps, while meaningful, remains too limited for its full realisation). And while it is possible for refugees to create their own political spaces within those camps: “Wherever you go, you will be a

³⁶ This reference to responsibility, or ethics, as discovered in situation, is borrowed from Sartre’s reflections at the end of *Being and Nothingness*: ‘Ontology itself can not formulate ethical precepts. It is concerned solely with what is, and we can not possibly derive imperatives from ontology’s indicatives. It does, however, allow us to catch a glimpse of what sort of ethics will assume its responsibilities when confronted with a *human reality in situation*.’ Of course, for the Heidegger of the ‘Letter on Humanism’, Sartre’s understanding of the subject was still too metaphysical, but the notion of deciphering, ‘creatively questioning’, what follows from ‘human reality in situation’ is precisely the move intended here from *theoria* to *praxis* apropos of the refugee. See Sartre, J.-P., *Being and Nothingness: An Essay on Phenomenological Ontology*, London: Routledge, 2001, pp. 625-626.

³⁷ See https://www.theguardian.com/world/2016/jul/18/refugees-us-china-japan-germany-france-uk-host-9-per-cent?CMP=fb_gu, retrieved 26/8/2016. Thus certain statistics are misleading – oft-quoted is the fact that developed nations like Canada and Australia lead the world on a per capita resettlement of refugees basis, but this resettlement in actuality represents a skimming off the top of the total population of concern, which is hosted – distinct from resettlement – for the most part in the developing world.

³⁸ <http://www.nytimes.com/2015/04/23/opinion/matteo-renzi-helping-the-migrants-is-everyones-duty.html> retrieved 26/8/2016.

³⁹ See <https://www.yahoo.com/news/italy-confirms-end-boat-migrant-rescue-op-mare-142437512.html?ref=gs>, retrieved 15/2/2017.

⁴⁰ For an important overview of policies of resettlement and how they figured in existing ideas about population transfers and colonization, see McAdam, J., ‘Relocation and Resettlement from Colonisation to Climate Change’, *London Review of International Law*, Vol. 3, No. 1, 2015, pp. 93-130.

⁴¹ Arendt, H., *The Human Condition*, Chicago: The University of Chicago Press, 1998, pp. 198-199.

polis"⁴² - this could be seen as a regrettable necessity of their dire situation, and not something which should be valorised; perhaps rather the camps should all disappear, by enabling all inhabitants to either return home if safe to do so, or to be resettled in a safe state, and thus have them emerge out of biopolitical limbo into civic agency once more. (To reiterate a previous concern, while it is possible to conceive of 'newly defined territorial entities', in Arendt's sense, or even the Cities of Asylum/Refuge examined in the previous chapter, it would also seem responsible – in an exploration of praxis – to consider the geopolitical system as it is, that is to say, as an anarchic system of independent states, whose power determines and delimits the possibilities of the realisation of human dignity to a great extent.) Also in the favour of this idea is the fact that it has already been done, in a more limited way, before – the resettlement of a significant number of refugees from Vietnam to states like France, the United States and Australia in the 1970s.

Thus Arendt is right to suppose that human dignity requires a political, territorial entity – whether a city, region or state – that is to say, civic agency. However, this should not only be understood as realisable only qua 'citizen'; the rights of 'man' remain determinate in this context. In order to bridge this gap, from the human to the civic, where it may not always be possible to provide immediate access to citizenship (especially in situations of emergency), the Greek concept of the figure of the *Metic* – whose modern form might be seen as coterminous with the 'permanent resident' – is fecund in this context. The *Metic* was a resident in Athens who could work and was allowed to remain within the city walls, but did not possess citizenship. This will be considered in greater detail further below.

'This Hospitable France'

In the funeral address for Levinas that begins *Adieu*, Derrida writes of Levinas's admiration of France:

[...] this country whose hospitality he so loved (and *Totality and Infinity* shows not only that "the essence of language is goodness" but that "the essence of language is friendship and hospitality"), this hospitable France [...].

The thought of hospitality as a manifestation of goodness in relation to France, is explored here via the possibility of impossibility posited by a reading of the work of Levinas and Derrida. The selection of France for this thought-experiment is deliberate for a number of reasons. Firstly, the relationship of these two thinkers with France on the theme of hospitality, as evinced by the remark from *Adieu* and Derrida's remarks above and in previous chapters. Secondly, it involves an evocation of a tradition of political hospitality dating back to the time of the French Revolution, where Republicans saw asylum as a duty incumbent upon the nascent Republic – there is a symbolic history and moral appeal to France as a torch-bearer of the right of asylum (it also being, of course, the nation which conceived of the Rights of Man and the Citizen, a central component of the argument pursued throughout). Finally, a practical reason apropos of the thought experiment is pertinent here – the current total population of France is more or less commensurate with the current global population of concern – both about sixty-five million people. Thus in the selection of France as the host state for the entire population of concern, a very rigorous test – one for one, one resident for one arrivant – is at issue. (This far outstrips even those states most heavily populated by refugees, such as Lebanon or

⁴² Pericles quoted by Arendt, *The Human Condition*, p. 198.

Jordan, where the ratio is more like 1 to 5, but whose example – in the sense also of exemplariness – is highly pertinent for the reflections that follow.)

It should be emphasised that this thought-experiment is not intended to posit states that are among the great powers are the saviours of lesser nations, carrying the ‘white man’s burden’. Yet refugees are overwhelmingly ‘voting with their feet’ (to lean on another colloquialism) in their preference for the developed world – even selecting between developed world states, as seen in the situation in Calais where significant numbers of refugees prefer settlement in the United Kingdom to France. And given the responsibility of former colonising or settler societies for historical injustice, in addition to their domination of global capitalism and foreign interventions, this example can be explored precisely as their *responsibility*, rather than their beneficence or noble burden (though in some cases it may also be the latter).⁴³ These are a difficult set of problems that require more space than can be granted here. But in the reference to the Rights of Man explored throughout, certainly an appeal to nobler instincts within the political – the opposite of realism, a form of normativity and ethical affirmation – is being posited. The important point for exploring the overall argument here is the testing of limits in the context of political hospitality.

What if, one day, it were to be suggested that France take in the entire global population of concern, on its own? That is to say, every current displaced person, refugee and asylum-seeker, every member of every refugee camp and all those in transit. Current estimates put this total figure at about 65 million people, which is more-or-less commensurate with the total population of France. That is, for every current citizen or resident of France, one more person would be added – an automatic doubling of the population. The likely political reaction is imaginable – this is a political impossibility at present, and probably for all time; other questions like social cohesion and attitudes to the new arrivals would be important in this context. However, it is *qua* economic problem – the limits of welcome for a state – that this ‘what if’ is intended to explore. And why only France? For Levinas, the responsible subject is not concerned with the responsibilities that others have, but only their own; while reciprocal agreements between states may meet obligations to stateless persons, the securing of such agreements should not see the limit to its own actions.

Recall that for Levinas, ‘the other concerns me in all his [sic] material misery’ – his ethics is based upon a phenomenology of experience: ‘We live from “good soup”, air, light, spectacles, work, ideas, sleep, etc... These are not objects of representations.’⁴⁴ So in responding to Richard Kearney’s question of ‘what is to be done?’ apropos of these Continental thinkers, the meaning of this phenomenological ethics as a mode of hospitality needs to be articulated. Reception of sixty-five million people will require rooms and beds, families buying the cheap bread and milk and ‘good soup’ to sustain the arrivants. Perhaps living-rooms would need to be commandeered, laying mattresses on floors, and cramped living conditions everywhere.

Why this reference to practical, everyday concerns? It is due in part to the necessity of a phenomenological ethics – articulated by Emmanuel Levinas – as a basis for thinking through questions

⁴³ Alain Badiou (whose affinities with Žižek can be confirmed in this context) is hostile to Levinas’s ethics, as he sees in them a respect for ‘difference’ that only respects certain types of difference: ‘It might well be that ethical ideology, detached from the religious teachings which at least conferred upon it the fullness of a “revealed” identity, is simply the final imperative of a conquering civilisation: “Become like me and I will respect your difference.’ See Badiou, A., *Ethics: An Essay on the Understanding of Evil*, London and New York: Verso, 2012, pp. 24-25.

⁴⁴ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 110.

of political asylum, in order to avoid the formalism or contractual nature of liberal theories of justice and other approaches, to literally and figuratively put a 'Face' on the problem.

But more significantly, the household can be seen – as previously argued – as the false synecdoche of the state. Political theorists and philosophers who study hospitality are aware of the familiar and by now tired recall of its etymological root wherein 'hostis' can imply both host and hostility, the person who is at home who decides whether to admit or to deny the arrivant. Derrida refers to this when he writes that there is 'No hospitality, in the classic sense, without sovereignty of oneself over one's home'.⁴⁵ Similarly, the etymology of economics refers to 'the laws of the house' – *oikonomia*, oikos, house, nomos, law or custom, management⁴⁶. This has been called into question throughout as problematic in relation to the limits of welcome within economic capacity. It is often on the grounds of economics that governments make claims about what they can provide to the displaced. But there may be a problem in limiting hospitality *qua* economics, by reference to the household, its laws and limits. Aristotle was already aware of this in the *Politics* (and this is a point of agreement with him): 'It is an error to suppose, as some do, that the role of a statesman, of a king, of a household-manager and of a master of slaves are the same, on the ground that they differ not in kind but only in point of numbers of persons.'⁴⁷

In positing the idea of 'France Alone' reference was made to the practical level of the household, as a means of questioning economic limits. But in a nation-state, new arrivants are not simply to be housed and fed in existing household; extra people are extra workers and extra consumers, who bring extra ideas, and thus the overall economic 'pie' grows – it is not a zero-sum game. But what are the evident flaws of household economics in relation to thinking the state? Such analogies are not necessarily helpful, because a household truly has certain limits which it will quickly reach, whereas there is a certain plasticity to the expansion, contraction, debt and earning capacities of a nation-state, which is backed in any event by its taxing power, whereas a household is not.⁴⁸ And as mentioned above, new arrivants do not represent only a burden, but can become workers and consumers and entrepreneurs and so on. Thus if a nation-state's economy is viewed as akin to a household economy, we limit the possibilities of welcome based upon a false analogy. *A nation-state has capacities that a household does not.*

Thus – and this is a key point - when Derrida says, 'Let us say yes to *who or what turns up*'⁴⁹, an extreme formulation of welcome for which he is often reproached – who is to say that he is in fact wrong? What is the calculus, the rigorous assessment from which this reproach issues? *What is the limit-point, and who can say what it is?* Are there an agreed set of figures about the limits of a city or nation, of a country's population and economy, of its capacity to provide? At what point does a state reach its ideal size? Such an ideal is of course a nonsense - cities and nation-states have no set limit or finally determinable capacity beyond which one should not go (recall the discussion in Chapter Four). The impossible to which both Levinas and Derrida point when they admonish us to practice a greater hospitality, may in fact remain within the bounds of possibility, the limit point of which always remains over the horizon and out of sight. Sometimes in their rhetorical flourishes, Derrida and Levinas seem to request the erasure of all limits. But they were not so foolish as to actually desire

⁴⁵ Derrida, J., *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, Stanford: Stanford University Press, 2000, p. 55. See also Derrida, J., *Hostipitality*, *Angelaki: Journal of the Theoretical Humanities*, Volume 5, Number 3, December 2000.

⁴⁶ <http://www.etymonline.com/index.php?term=economy> Retrieved 15/6/2014.

⁴⁷ *The Politics*, 1252a7, p. 54.

⁴⁸ See the discussion earlier in the chapter.

⁴⁹ See the discussion in Chapter Three.

this; the concept of 'pure' hospitality in Derrida and the subjection of the ego to the other in Levinas are to my mind conceptual apparatus which are immediately mediated by context – in Derrida, the distinction between the purity of impossibility and the need for achievable possibilities is sometimes (though not always) emphasised, and in Levinas the apparition of the Third removes the possibility of total solicitude for any one other and introduces the need to make limiting choices – the moment of justice, of weighing decisions and outcomes⁵⁰.

In other words, even those thinkers who seem to call for the impossible recognise that it is necessary to make limiting choices. Indeed, perhaps Derrida himself is too much in thrall to the limits of hospitality as conceptualised through the metaphor of the household. Nation-states, like households, surely do have limit-points for their capacity to welcome – at some point, the notion of scarcity must come in to play. However this point is not easy to determine. Thus the comparison with household economics should be avoided or at least treated with more care. What indeed, is this privilege that is granted to the etymological root of a word, and the signification that this root indicates concerning the concept, practice or thing it names? Is hospitality bounded by this cleavage between host and hostility? If it is, perhaps it is not 'hospitality' but rather 'welcoming' which needs to be the focus of reflection. But for now at least, we still need to think deeply about this word 'hospitality'. 'No hospitality, in the classic sense' – but perhaps the 'classic sense' is inadequate. *Hospitality at the national level needs to move out of the house.*

In positing one country, France, as the sole provider of refuge in the thought-experiment, a state was selected with a tradition of political hospitality whose population is reasonably commensurate with the number of displaced people in the world; a very high theoretical ratio of 1:1 of residents-arrivants in order to test the limit point. The task here was not to provide economic arguments, but to 'creatively question' a certain political logic that rests on economic presuppositions. There are however other instances of nation-states taking on enormous numbers of migrants or refugees, who strained without ever breaking. There is a seeming plasticity to the capacity of the nation-state which does not adhere at the level of the house-hold; thus a point to emphasise is that political actors and commentators would do well to avoid the analogy of the household when they speak and act on this issue. Similarly, political theorists might look beyond the etymological roots of both hospitality and economics, to the extent that those roots tend to remind us of household level economics, and be more imaginative in how they frame the limits of refuge.

One can anticipate objections to this thought-experiment; it's a problematic, adventurous thesis. But tens of millions of people need help, and that help is very, very slow to arrive, if it arrives at all, and where the poorest nations bear the greatest burdens. At present this is accepted as the status quo. It could be argued that the actual radicality is not this thought experiment; radicality is rather the situation the world is already enmired in⁵¹. Perhaps it is a matter of switching radicalities – from radical exclusion, to a modality of radical welcome? It is necessary to demonstrate how this might work in practice; have done this by using concrete, 'down-to-earth' examples – the phenomenological impact, in the here-and-now, of those who would occupy our living spaces and

⁵⁰See for example Levinas, E., *Otherwise Than Being or Beyond Essence*, Pittsburgh: Duquesne University Press, 1998, p. 16: 'The act of consciousness is motivated by the presence of a third party alongside of the neighbour approached. A third party is also approached; and the relationship between the neighbor and the third party cannot be indifferent to me when I approach. There must be a justice among incomparable ones. There must then be a comparison between incomparables'.

⁵¹ 'It would take nearly 150 years for all refugees under UNHCR's mandate to be resettled'. From <http://www.refugeecouncil.org.au/getfacts/statistics/unchr2015/>, retrieved 6/2/17.

share our bread and milk, and by questioning the assumptions that inform the 'calculus of moderation' at the level of the nation-state.

None of the preceding arguments should be seen as a call for the removal of limits; a greater hospitality would need to be mediated through as orderly a process as possible, with certain expectations on arrivants to respect local customs and laws and so on. The point is not to do away with laws or limits, but to put into question just where a limit should be placed in relation to asylum, and why. It is to suggest that justice concerns should constitute the limits, not political calculation.

Bonnie Honig, in her book *Democracy and the Foreigner*, expresses summarily the problem with reducing foreigners to empiricism: '[...] in contemporary debates about immigration, the facts can inform but they cannot resolve the question of whether immigrants are good or bad for the nation because the question is not, at bottom, an empirical question.'⁵² This remark, which Honig intends in a broader sense of how foreigners relate to the life-world of democracies, applies equally to the reduction of stateless persons to numbers. The totalising calculability of an ethical demand for refuge would seem to founder on the impossibility of any 'determinative judgment', as Derrida observes in *Rogues*:

A calculable event, one that falls, like a case, like the object of some knowledge, under the generality of a law, norm, determinative judgment, or technoscience, and thus of a power-knowledge and a knowledge-power, is not, *at least in this measure*, an event. Without the absolute singularity of the incalculable and the exceptional, no thing and no one, nothing *other* and thus *nothing*, arrives or happens.... *The unconditionality of the incalculable* allows or gives the event to be thought.⁵³

And it is precisely on the subject of hospitality that for Derrida, unconditionality is often privileged:

Among the figures of unconditionality without sovereignty I have had occasion to privilege in recent years, there would be, for example, that of an *unconditional hospitality* that exposes itself without limit to the coming of the other, beyond rights and laws, beyond a hospitality conditioned by the right of asylum, by the right to immigration, by citizenship, and even by the right to universal hospitality, which still remains, for Kant, for example, under the authority of a political or cosmopolitical law. Only an unconditional hospitality can give meaning and practical rationality to a concept of hospitality. Unconditional hospitality exceeds juridical, political, or economic calculation. But no thing and no one happens or arrives without it.⁵⁴

Unconditional hospitality is that which exceeds calculation, but it is also related to it: '[...] *both calculation and the incalculable are necessary*.'⁵⁵ The relation to the other is not a mathematical claim – the relationship to the infinite in the sense of that which exceeds the subject, per Levinas – but nevertheless, calculations are necessary.

⁵² Honig, B., *Democracy and the Foreigner*, Princeton: Princeton University Press, 2001, p. 6.

⁵³ Derrida, J., *Rogues: Two Essays on Reason*, Stanford: Stanford University Press, 2005, p. 148.

⁵⁴ *Rogues*, p. 149.

⁵⁵ *Rogues*, p. 150.

German Hospitality

It is perhaps ironic that at the time of writing this chapter on France, its neighbour, Germany, enacted a version of expansive hospitality that goes some way towards what has been discussed as possible above – admitting one million refugees or more in 2015 alone. (And this precisely at the time when France has been criticised for its treatment of refugees in the so-called Calais ‘jungle’ – a title apt in its reduction of human beings to an animal state). This action met with a variety of responses – cynicism, praise, bafflement. *Time Magazine* made Angela Merkel their ‘Person of the Year’ for this act, and the directives on this policy did seem to issue directly from her (often against the wishes of her own political coalition and party members).⁵⁶

It may be that the question of Germany’s historical guilt in relation to the Holocaust was the moral imperative driving the decision. Other considerations might include the economic benefits of increased migration for Germany, with an ageing population and a workforce shortage, which meant it was in effect a practical, self-interested policy approach. What also may have played a role were the shocking images of the death of Alan Kurdi, and Merkel’s own encounter with a crying refugee child who asked why she couldn’t be admitted to Germany – the shock of *encounter*. Some European countries such as Italy, Greece and Turkey, were already dealing with significant numbers of asylum-seekers, but this was an unavoidable consequence of being on the shores of the Mediterranean and the first place of reception for many of those asylum-seekers (however, these states were themselves not lacking in generosity on many fronts). What was different about the German example, however, was a deliberate policy decision to not only allow but to welcome a significant population of asylum-seekers, to consciously and actively practice solicitude, and not simply respond to arrivants as they show up. A system of distribution of asylum-seekers to various regions of Germany based on population showed a method of calculus that is possible when dealing with such significant numbers. This is a political decision – and thus perhaps in line with Arendt’s views – but meets the criteria of an ethos of responsibility in both the response to the Face – the need of vulnerable persons; and in the suspension, at least temporarily, of all limits.

Noam Chomsky has written recently of the refugee crisis, indicating that he believe powerful states could ‘easily accommodate’ the numbers of refugees requiring safe-haven, ‘But the reaction of the states is a moral disgrace, even putting aside their considerable responsibility for the circumstances that have compelled people to flee for their lives.’⁵⁷ This position, of no limit, is ranged against its opposite, as in the case of Jean Raspail’s polemic *The Camp of the Saints*: ‘But for God’s sake, a million immigrants!’, where a fear of significant numbers is expressed (in highly xenophobic terms).⁵⁸

⁵⁶ See <http://time.com/time-person-of-the-year-2015-angela-merkel/>, retrieved 10/5/16.

⁵⁷ See <https://chomsky.info/05052016/>, retrieved 6/9/2016.

⁵⁸ Raspail, J., *The Camp of the Saints*, Petoskey: The Social Contract Press, 2015, p. 76. The novel is an awful screed for any discerning reader – overtly racist, suggesting, implicitly and explicitly, that murderous violence be employed against refugees; and poorly written, with the authorial voice constantly intruding in the narrative to make nasty, mean-spirited suggestions. Raspail uses the following terms as descriptors of the refugees: ‘stench’, ‘invasion’, ‘Satan’, ‘millions’, ‘animals’, ‘microbes’, ‘antiworld’, ‘assault’; children at the gates of the Belgian consulate in India, where the events commence, are repeatedly referred to as ‘monsters’ without a hint of irony. The outdated language of referring to non-Western countries as an amorphous ‘third world’ also pervades the novel. This book would not be worth mentioning – indeed, merits at most a mention in passing in serious scholarship – but for the fact that it is reviewed in apparently serious publications like *Time Magazine* and the *Wall Street Journal*; it was also the subject of a thoughtful piece in *The Atlantic*. See ‘Must it be the West against

What cannot be denied in the case of Germany is that more than a million people, most afflicted by the horrors of war, by direct virtue of this policy, obtained refuge in a safe land of plenty. It was an extraordinary gesture on the part of a wealthy, developed country – as an act of asylum (as opposed to expansive immigration programs of the past) it is a gesture virtually without historical precedent on that scale. (It should also be observed that what is extraordinary for a wealthy country is not so for many developing nations, who regularly shoulder the actual burden of hosting large populations of concern – Chad and Ethiopia, for example, are among the top ten states for hosting refugees at present).⁵⁹ It certainly gives the lie to Raspail's worry that a million people – one of his worried numbers, among others – cannot be accommodated by a single wealthy Western nation. As for the practical concerns of the thought-experiment posed above, Germany implemented a system of distribution of refugees in proportion according to the population of different regions of Germany. Dealing with significant numbers, for a developed state, is an achievable goal.

Subsequent to this decision by Merkel, Germany struck a deal with Turkey designed to limit the continued flow of Syrian asylum-seekers into Europe – thus the laudable nature of this gesture has its limits.⁶⁰ But Germany's initial gesture tilts – and not necessarily in Quixotic fashion – at the possibility of the impossible discussed in this thesis, the possibility that states, especially powerful and wealthy states, once they recognise the human dimensions of a refugee crisis (at least in part in the phenomenological terms described by Levinas), can negotiate the limits of welcome in an expansive modality without coming to harm, and indeed attracting benefits to themselves. That is to say that the seemingly impossible – to take in 'all the wretched poor of the Earth', and not only the poor but the politically vulnerable – those without the rights afforded by citizenship – can be broached as *possible*. Whether one wealthy nation alone could do it, the extreme example given in this chapter, will probably never be established⁶¹ – but once the numbers were divided over a greater number of states, say all of the members of the OECD – wealthy and safe states – the total responsibility for each would be significantly diminished, and the problem of the guarantee of human dignity for all the stateless of the world could be comprehensively addressed. But such a gesture requires a modality of politics that recognises hospitality as a kind of allowing, a mode of justice that informs by a grace that precedes it (more on this in Chapter Six).

the Rest?', at <http://www.theatlantic.com/past/politics/immigrat/kennf.htm>, retrieved 3/9/2016. I have also seen it recommended for reading on serious current affairs programmes on television, and personally experienced some difficulty in purchasing a copy at the time of the migration events in Europe in 2015 (the copy I obtained was the eighth edition) – it is clearly being read and absorbed by many people.

⁵⁹ See <https://www.amnesty.org/en/latest/news/2015/10/global-refugee-crisis-by-the-numbers/>, retrieved 22/2/17.

⁶⁰ A similar issue arose in the early 1990s, where the German Constitution, which guaranteed the right to seek asylum, was amended in the face of enormous post-Cold War migrant numbers. An initial attitude of beneficence – a product of post-Nazi constitution rewriting – was modified in response to significant numbers of arrivals. See Lamey, A., 'A Liberal Theory of Asylum', *Politics, Philosophy and Economics*, 2012, Vol. 11, No. 3, pp. 235-57.

⁶¹ When Chomsky says that powerful states could 'easily accommodate' all refugees, one wonders if, spread across the vast continent of the United States and that of Europe, he is not correct. Neither geographic space nor economic might are lacking in these contexts (fluctuating unemployment aside), but rather, the will to act; less powerful states often have little choice but to act, given their proximity to conflict zones and mass-migration zones.

Metics/Métèques

The delimitation of moderation in the name of an *ethos of responsibility*, might be thought in relation to conditions of *urgency* – periods of crisis when large numbers of persons are in need of refuge, such as the plight of Jewish persons before, during and after the Second World War, and the current situation faced by refugees from the Syrian conflict (as well as refugees from Eritrea, Rohingyas from Myanmar, a list that could be extended considerably). The Right to Have Rights could entail the granting of citizenship, but in a context of emergency, a different model of civic membership might be considered that could provide stateless persons with rights of residency, which would provide minimum basic guarantees to ensure their human dignity. The modern term for this type of membership is ‘permanent residency’ (with other variations, some less felicitous, like Bridging Visas or Temporary Protection Visas); but as an idea of membership in a polity, it also recalls a figure from Ancient Athens with positive rights, but which has entered (negatively) into the parlance of French politics as a term of ridicule for foreigners in France – that of the *Metic* (or *Métèque* in French). In the context of a discussion of asylum in France in this chapter, and in Ancient Athens in Chapter Six, the *Metic/Métèque* is a fruitful term to take up for a thinking of a formal recognition before the law for stateless persons. Such a thinking is another iteration of what might be meant by Arendt’s idea of a Right to Have Rights, where the right is thought beyond the limits of citizenship, to include other modalities of civic inclusion, and it takes a figure fundamentally related to the economic life of the ancient Greek polis, and rethinks it in humanitarian terms.

The Greek and French iterations of the *Metic* are brought together in a brilliant discussion by Nicole Loraux in her book *Born of the Earth: Myth & Politics in Athens*, especially in the final chapter: ‘Democracy Put to the Test of the Stranger (Athens, Paris)’. Provocatively, she suggests that ‘An analysis of the Athenian citizen’s identity has also permitted me to observe that it was probably better to be an Athenian *Metic* than an immigrant in 1990s France.’⁶² However, she also makes a double gesture with regards to the Ancient Greeks: while arguing that the *Metic* in Athens was relatively well-treated, she nevertheless cautions against writing a paean to the Greeks, into converting them into either angels or demons; one can recognise both good and bad elements to their political life from the perspective of modernity, but the problem of understanding and explanation in relation to antiquity will remain.⁶³

The *Metic* in Ancient Athens did not have legal rights equivalent to that of citizens: they could not independently take legal action, but required an Athenian patron to do so; they could not acquire land; they did not have political rights; and the murder of a *Metic* was treated as a lesser crime - involuntary homicide or manslaughter.⁶⁴ Nevertheless, they are accorded an important status in the polis, in that their economic import is recognised, as Xenophon writes: ‘because the polis needs *Metics*, owing the many jobs that need doing and also the fleet. This is why, for *Metics* also, we have established equality of speech.’⁶⁵ Their right to *isegoria* – equality of speech – was tied to their economic importance - the *Metic* can be considered the *homo economicus* of the Greek polis, not

⁶² Loraux, N., *Born of the Earth: Myth & Politics in Athens*, New York: Cornell University Press, 2000, p. 128.

⁶³ *Born of the Earth*, p. 125.

⁶⁴ *Born of the Earth*, p. 129.

⁶⁵ *Born of the Earth*, p. 132.

exactly a gracious welcome, nor a figure of political asylum.⁶⁶ Indeed, Jean-Pierre Vernant observes that:

Between a metic and a citizen, both in charge of a manufacturing establishment with 15 or 20 slaves, or active in maritime commerce, or dealing in bottomry loans, there was no difference in economic status, that is, in their positions in the process of production. Nevertheless, it would be impossible to consider them as members of the same class. Between them there were antagonisms and conflict, including conflict of interest.⁶⁷

The fortunes of the Metics waxed and waned with the changing regimes in fifth and fourth century Athens, and they fared better under democracy than under oligarchs.⁶⁸ But Loraux emphasises that from the reforms of Cleisthenes onwards, the posture of Athens towards the Metics at least begins with openness, and even integration; for this reason, democracy itself, qua political structure of openness, was criticised by its opponents as *excessive* in nature.⁶⁹ (That openness is already excess to its opponents bears reflection in the context of a thinking of the calculus of moderation). Perhaps most importantly for present questions of hospitality, the Metics in Ancient Athens had access to rudimentary treaties to claim a right of asylum.⁷⁰ But this presented a practical difficulty in terms of access, in that '[...] pleading a case was a prerogative in principle reserved to citizens'.⁷¹

Thus there existed already in Fifth Century Athens, a modality of openness to foreigners-as-Metics⁷², and at least some recourse to a right of asylum and other legal rights. Yet the term Metic will remerge in French as *Métèque* in modernity, in especial use during the 1930s, as a pejorative designation for foreigners residing in France, a term used by right-wing polemicists such as Charles Maurras (who linked the term to Jews).⁷³ More recently in a speech by a member of Le Pen's National Front in the National Assembly(!), the figure of the metic was described in opposition to the thesis of openness (where the foreigners in question at that time are primarily migrants from across the Mediterranean), by this argument: given that Ancient Democracy already restricted rights for foreigners, this should inform our understanding of the rights of foreigners in democracies in the present day - an argument Loraux thoroughly debunks by careful textual analysis.⁷⁴ Nevertheless, the

⁶⁶ See the discussion of the Metics in Kristeva, J. (trans. Roudiez, L. S.), *Strangers to Ourselves*, New York: Columbia Press, 1991, pp. 49-50 and pp. 53-54. Kristeva relies in these passages on Baslez, M.-F., *L'Étranger dans la Grèce antique*, Paris: Les Belles Lettres, 1984.

⁶⁷ Vernant, J.-P., *Myth and Society in Ancient Greece*, New York: Zone Books, 1990, p. 21.

⁶⁸ *Born of the Earth*, p. 127.

⁶⁹ *Born of the Earth*, p. 133. That Athens held an image of itself as open to foreigners also emerges in Pericles' 'Funeral Oration', discussed in Chapter Six. Loraux writes that Pericles had good reason to praise the openness of Athens, as compared to Sparta, which was much more exclusionary (p. 129).

⁷⁰ *Born of the Earth*, p. 138.

⁷¹ *Born of the Earth*, p. 138. This is a very interesting problem if one considers the mid-fifth century tragic cycle, *The Oresteia*, where a foreigner, Orestes (though not a Metic), is nevertheless subject, as a vulnerable suppliant seeking refuge from the Furies, to a formal legal process to determine the justness of his cause. This tragedy is discussed at length in the next chapter.

⁷² Of course, the same did not apply to the slaves of Athens.

⁷³ *Born of the Earth*, p. 127. Recall the discussion in Chapter Four concerning the 'sans-papiers' of African origin who sought refuge in the Church of St Bernard, an episode roughly contemporaneous with the political events Loraux is describing. The National Front, anti-migrant in posture, was ascending in the 1990s, with Jean-Marine Le Pen making the second round Presidential run-off in the elections in 2002. See also Badiou, A., Hazan, E., and Segré, I., *Reflections on Anti-Semitism*, London and New York: Verso, 2013, pp. 11-13.

⁷⁴ *Born of the Earth*, pp. 134-142.

Métèque on this National Front account is precisely evidence of the need for restricted access for foreigners on the part of democratic polities.

Need this be the case? Recent German openness to refugees was discussed in the previous section; to this can also be added a similar openness on the part of Canada towards Syrian refugees. Does not the figure of the Metic raise its head again in this context, when states like Canada and Germany admit significant populations of refugees, at least in part for economic reasons? Stateless persons can be accommodated from self-interest, because 'the polis of the citizens could not exist without the presence of strangers.'⁷⁵ The limited legal status of the Metic in Classical Athens, limits the extent to which this figure goes far enough in terms of securing a Right to Have Rights; a concern for Arendt as for Aristotle (himself *metoikos*, a resident-alien), was the ability to participate meaningfully in the *politeia*, and the delimitation of civic rights is thus problematic.⁷⁶ However, in terms of providing criterion for judgment in an ethos of responsibility, there are at least three important registers in which the Metic might orient the thinking of a politics of asylum: firstly, an example from antiquity of a class of foreigner who (as noted above) had rights to treaties to claim asylum (often lacking in the present day, in the difficulties faced by asylum-seekers in having their case heard in a court); secondly, an argument for a model of permanent residency that would provide immediate safety for stateless persons, even when out of political or practical difficulty they cannot in the short-term be granted rights of citizenship, thus responding to conditions of urgency, and to demands in terms of numbers that can seem overwhelming in the immediate moment (openness is not an *a priori* negative for the life of the polis, but even the condition of its possibility); thirdly, an argument for the economic importance of foreigners for the domestic economies of hosting states.

In view of an ethos of responsibility that would seek to put moderation in question, the Metic is problematic as a figure with a fundamentally *economic* relation to the polis; Kristeva laments the treatment of present-day foreigners in Western societies as akin to the Metic – that is, valued only for their economic contribution, and otherwise restricted as to their rights.⁷⁷ Yet the arguments given above might be arguments for stateless persons that go beyond the concern about *numbers of persons*; it suggests that it is possible that significant numbers can be accommodated and given at least limited rights. It is not a question of abandoning all senses of moderation, but of putting the meaning, interpretation and limits of moderation into question. Loraux's arguments about the doubled, contested nature of the Metic/Métèque – from welcomed foreigner in antiquity, to marginalized foreigner in modernity – show that the uncertain place of the Metic in the polis, thought in humanitarian terms, stages the difficulty, and the *possibility*, of providing refuge for foreigners, where their rights to basic human dignity can be guaranteed. At a minimum, such an approach could go far towards emptying camps where millions of people languish at present, with waiting times for resettlement that span decades – not by reducing them to a biopolitical mass and moving them around the world against their will, but precisely the opposite – restoring to them the opportunity of at least minimal civic belonging (which is in the spirit, if not the full force, of the Right to Have Rights), safety and economic advancement. That the other person is not reducible to a calculus, and that the infinite demand issuing from the other person is always to be negotiated, *can* be negotiated, in such terms – their 'Rights of Man' secured, qua human beings, their civic rights respected qua 'Metics', that is, some novel form of humanitarian permanent residency whose exact contours are to be determined, and perhaps ultimately as citizens. Yet even if one is to maintain the figure of the Metic as a protected

⁷⁵ Born of the Earth, p. 129. For a detailed discussion of the economic benefits of mass migration, see Legrain, P., *Immigrants: Your Country Needs Them*, Princeton: Princeton University Press, 2007.

⁷⁶ See the Introduction by Saunders, T., to Aristotle, *The Politics*, London: Penguin Books, 1992, pp. 22-23.

⁷⁷ *Strangers to Ourselves*, p. 54.

member of the polity with rights, rather than a disparaged figure (there is some debate on this in the literature)⁷⁸, the Metic remains a question for the polity:

And they, the *metoikoi*, pose a central and continuing problem for the *politai*: if the *politai* resolve that demarcation must be maintained they have to regulate not one but two free statuses and determine the precise differences and similarities between them. In such a situation, and especially if the group excluded from the political monopoly come to make a significant economic, intellectual or artistic contribution to the community, feelings will be strong and (often) conflicting...both groups will develop a perception of themselves and of the other, and in the case of the *politai* this will interact with the concrete decisions they take as to how the *metoikoi* shall live.⁷⁹

Vernant's reflections on the Metics cited further above, occurs in the context of an examination of the 'class struggle', in Marxist terms, that existed in antiquity. Adorno writes in *Minima Moralia* that 'Aristotle's *Politics* openly admits the fusion of inner worth with status in its definition of nobility as 'inherited wealth, combined with excellence'. The conception of the polis in the classical age, embracing both inward and outward existence, the individual's position in the city state and his self as a unity, made it possible to attribute moral rank to riches without arousing the crude suspicions even at that time befitting the doctrine.⁸⁰ That rights for human beings are articulated in a context of economics, is an already-present tension in the Declaration of the Rights of Man and Citizen, which places a great emphasis on property rights, as well as civic rights, leading Robespierre, the 'incorruptible', to complain about '[...] muddy souls, who value nothing but gold'.⁸¹ This raises an interesting question in regards to properly situating the struggles of stateless persons in a geopolitico-economic context. In the Introduction, a reservation was evinced in regard to a thinking of criterion for judgment for politics of asylum that would await radical politico-economic, systemic overhaul, which is not to say that such a thinking would not be valuable. This problem is raised by the self-styled proto-Communist Slavoj Žižek in his recent text (discussed earlier in this chapter) on the present refugee crisis, and a point of some merit: that to only provide refuge, as a gesture of largesse by powerful states, is to miss the role those states play in the creation of large groups of refugees – through imperial military conquests, economic domination, environmental rapaciousness and so on.⁸² His friend Alain Badiou makes similar remarks: for Badiou, political philosophy just serves 'capitalo-parliamentarianism'⁸³, and a thinking of Otherness in a Levinasian-Derridian register, conceives of the other 'as a potential victim to be protected (most often, as a 'marginalized', 'excluded' or 'Third World'

⁷⁸ See the Introduction to Whitehead, D., *The Ideology of the Athenian Metic*, Cambridge Philological Society, Supplementary Volume No. 4, Cambridge: Cambridge University Library, 1977.

⁷⁹ *The Ideology of the Athenian Metic*, p. 3.

⁸⁰ Adorno, T., *Minima Moralia: Reflections from Damaged Life*, London and New York: Verso, 2005, pp. 196-197.

⁸¹ 'Draft Declaration of the Rights of Man and Citizen', in *Slavoj Žižek Presents Robespierre*, p. 66. On the critique of the Declaration and its relation to property rights, see also the paper discussed in Chapter One: Hamacher, Werner, and Mendoza-de Jesus, Ronald, 'On the Right to Have Rights: Human Rights; Marx and Arendt', in *CR: The New Centennial Review*, Vol. 14, No. 2, Law and Violence issue Fall 2014, pp. 169-214.

⁸² Žižek, S., *Against the Double Blackmail: Refugees, Terror and Other Troubles with the Neighbours*, London: Allen Lane Press, 2015. See also Žižek's foreword to the fascinating short book by Wahnich, S., *In Defence of the Terror: Liberty or Death in the French Revolution*, London and New York: Verso, 2015. Systemic violence is described by Žižek in the latter text as akin to the dark matter of physics – 'the 'objective' violence inscribed into the smooth functioning of our economic and political systems' (p. xv).

⁸³ Badiou, A., *The Communist Hypothesis*, London and New York: Verso, 2010, p. 38.

victim, to be protected by a dutiful, efficient and invariably 'Western' benefactor/exploiter.'⁸⁴ All of this is food for thought, yet it is also necessary to think a criterion for judgment that would make those states who are in those ways responsible for the plight of the stateless, therefore at minimum precisely responsible for providing a guarantee human dignity for the stateless. As either an appeal to the ostensible nobility of their self-image, or to the guilt of their actions, either way they are *responsible*: such is the argument of this chapter *tout court*.

Conclusion

What is the political identity of a state that should be appealed to? Perhaps it is a matter, in Derrida's phrase, of 'choosing one's heritage': 'The concept of responsibility has no sense at all outside of an experience of inheritance.'⁸⁵ As discussed in Chapter Three, Derrida refers to Europe in *The Other Heading* in the guise of exemplarity: 'The idea of an advanced point of exemplarity is the idea of the European idea'⁸⁶, and that '[...] it is necessary to make ourselves the guardians of an idea of Europe, of a difference of Europe, but of a Europe that consists precisely in not closing itself off in its own identity and in advancing itself in an exemplary way toward what it is not'.⁸⁷ In France, a self-image as a hospitable nation has often conflicted with the realities and pressures of responding to refugees, and with reactionary policies and rhetoric (the 'crimes' of hospitality and solidarity discussed in Chapter Four, the Maurrassian rhetoric of 'Métèques'). Yet the appeal to a political formalisation of a right to asylum at the level of the state, remains fecund in thinking through the stakes of an *ethos of responsibility*. It is to instantiate within the state something beyond the state, a principle transcending the state that informs the sense of *Fraternité* as Levinas understood it (discussed in Chapter Two), something which politics can be judged against, as in the words of Robespierre: 'We want an order of things...in which the citizen would be subject to the magistrate, the magistrate to the people and the people to justice'.⁸⁸ This is precisely in alignment with Levinas's statement, elaborated in Chapter Two: 'It is the responsibility for the other that determines the legitimacy of the state, that is, its justice.'⁸⁹ While there are international agreements, agencies and laws that relate to stateless persons, nevertheless much of the effective operation of asylum occurs at the level of the state, and thus the state needs to be thought in relation to asylum. Towards the end of *Rogues*, Derrida offers a justification for a certain privileging of the state:

Nation-state sovereignty can even itself, in certain conditions, become an indispensable bulwark against certain international powers, certain ideological, religious, or capitalist, indeed linguistic, hegemonies that, under the cover of liberalism or universalism, would still represent, in a world that would be little more than a marketplace, a rationalisation in the service of particular

⁸⁴ See the Introduction by Hallward, P., to Badiou, A., *Ethics: An Essay on the Understanding of Evil*, London and New York: Verso, 2012, p. xiii.

⁸⁵ Derrida, J., and RoundisESCO, E., trans. Fort, J., *For What Tomorrow...A Dialogue*, Stanford: Stanford University Press, 2004, p. 5.

⁸⁶ Derrida, J., 'The Other Heading: Memories, Responses, and Responsibilities', in *The Other Heading: Reflections on Today's Europe*, Bloomington & Indianapolis: Indiana University Press, 1992, p.24.

⁸⁷ *The Other Heading*, p. 29.

⁸⁸ 'On the Principles of Political Morality', in *Slavoj Zizek Presents Robespierre*, p. 110.

⁸⁹ 'Apropos of Buber: Some Notes', in Levinas, E., *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 45.

interests....responsibility would consist in orienting oneself without any *determinative* knowledge of the rule.⁹⁰

In sketching the contours of an *ethos of responsibility*, the following stages have thus far been elaborated: firstly, the identification of the problem (the need for a guarantee of human dignity for stateless persons which Arendt calls for, and the problems with Arendt's own account of this); secondly, addressing those problems with reference to the Levinasian Face, which provides the locus of the dignified subject and the concomitant demand for responsibility; thirdly, to think Levinas's philosophy as a philosophy of possibility, which is to say the possibility of an ethical response to the Face; fourth, to think this in conjunction with Derrida's own thinking of impossibility, in light of the seemingly limitless nature of the response required for millions of Faces; fifth, to show how these concerns might become operative in *praxis*, via either a challenge to the city (Cities of Asylum/Refuge) or via the state itself (France Alone).

Running through all of these chapters, and first articulated in Chapter One, is the idea of a grace beyond measure which might ultimately inform the *ethos of responsibility*. A grace that is prior to justice (if justice is itself measure, that is, a weighing of the scales), and the need to put into question measure itself – which is to say, numbers, limits, calculation, as the ultimate horizon of the politics of asylum – is elaborated in the next chapter.

⁹⁰ *Rogues*, p. 158.

CHAPTER SIX – ATHENA’S GESTURE: A READING OF THE ORESTEIA

...it [hospitality] is gracious.¹ – Jacques Derrida

Introduction

In the ‘Letter on Humanism’, Martin Heidegger makes the following claim:

The tragedies of Sophocles –provided such a comparison is at all permissible – preserve the ēthos in their sagas more primordially than Aristotle’s lectures on “ethics”.²

The wager of this claim is taken up in this chapter, albeit in regard to a different tragedian: Aeschylus. The role of tragedy was bound up with the development of political philosophy in Ancient Greece³ – a staging of problems in which the audience, represented via the Chorus, can wrestle with ethico-political dilemmas and seek their resolution.

Aristotle has represented something of a nemesis for the present argument – that is, as akin to the figure of Nemesis, goddess of measure and retribution, against those who overstep boundaries. As discussed in earlier chapters, Aristotle’s conception of justice is that of measure, and injustice as excess. But the argument to be pursued in this chapter is that in Aeschylus’ *Oresteian Trilogy*, a moment of the instantiation of justice can be identified – Athena’s decision in favour of Orestes – that is not reducible to a notion of measure. That is, an idea of justice is enacted in Athena’s gesture that reconfigures justice, beyond the scales of calculation and measure, to a justice that is leavened by grace; grace which is not an aesthetic phenomenon or pertaining to a lovely bearing and sensuous movement and so on, but rather, as Schiller observed, that which belongs to moral sentiments.⁴ Grace as a ‘moral sentiment’ in this context means an act of allowing, of the suspension of calculation, something freely given – in the context of political refuge, grace modifies the just act via that suspension – where calculation can no longer guide judgment – nor should it perhaps set the limit – grace acts outside of limits, in the name of human dignity. This line of thought will be elaborated further below.

It is, to be sure, an unusual argument to pursue in relation to a culture so bound up with the notion of measure: that it is possible to articulate a Greek moment of escaping the bounds of measure, in the name of a reconfigured justice.

The purpose of this thesis has been to explore a thinking about hospitality that is contrary to how political theory approaches this theme at present. Much of political practice is governed by what has been referred to throughout as the ‘calculus of moderation’, the imposition of reasonable-

¹ Derrida, J., *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, Stanford: Stanford University Press, 2000, p. 83.

² Heidegger, M., ‘Letter on Humanism’, in *Heidegger: Basic Writings*, London: Routledge, 2011, p. 174.

³ Euben, P. *The Tragedy of Political Theory: The Road Not Taken*, Princeton: Princeton University Press, 1990, p. xi.

⁴ Schiller, F., (trans. Gregory, G.) ‘On Grace and Dignity’, in *Friedrich Schiller: Poet of Freedom*, Volume One, Schiller Institute, 2015, e-book, p. 340. Nor is grace intended in a religious signification akin to a fallenness in a Pascalian sense, but rather in the sense defined in the introduction and developed further in the present chapter.

seeming limits to asylum, the presuppositions of which had not been sufficiently interrogated. Therefore the question is whether measure and calculation should set the limit to how hospitality is approached, and how extant thinking in this area might be purposefully modified by the thinking of Levinas and Derrida, which tilts at the possibility of the impossible – that asylum might be granted beyond imagined limits, ostensibly excessive, but still within certain bounds of practical possibility. That is to suggest, *pace* Aristotle, that justice be thought of as excessive rather than moderate, or that at the least, moderation and the calculative should be subject to gracious interruption or suspension. These arguments will be drawn together and concluded with some remarks about how the ‘continental’ vision of political hospitality explored here is indeed radical, not in the colloquially negative sense of irresponsible excess, but rather in the way that it recalls the roots of the politico-philosophical tradition going back to the Greeks, where an expansive ideal of hospitality informed their world-view (if not always their practices). That is to say that a gracious, merciful, and just hospitality of the type propounded by these Continental thinkers would not be a contravention of, but rather entirely faithful to, the very origins of the Western democratic political tradition. And by taking a detour back to the Greek roots of the tradition, the meaning of hospitality and its instantiation as a form of grace which seasons justice will be clarified.

Greek Hospitality

The religion, literature and life-world of the Ancient Greeks is dominated by the theme of hospitality. The greatest of the Greek Gods, Zeus, is the God of suppliants, of exiles and strangers.⁵ The events described in *The Iliad* are precipitated by Paris absconding with Helen and thus contravening the norms of hospitality, provoking violent retaliation. A similar fate awaits the suitors in *The Odyssey*, which can be read in part as one long meditation on hospitality, exile, and the limits of welcome: classicist Bernard Knox, introducing Robert Fagles’ celebrated translation, observes: ‘It is a theme fundamental for the *Odyssey* as a whole...the relation between host and guest, particularly the moral obligation to welcome and to protect the stranger, an obligation imposed on civilised mankind by Zeus, one of whose many titles is *xeinios*, “protector of strangers.”⁶ This is given in the text as self-evident: ‘Treat your guest and suppliant like a brother; anyone with a touch of sense knows that.’⁷ Many Greek tragedies centre on the theme of refuge, such as *The Oresteia*, *The Suppliants*, and *Oedipus at Colonus*. In the *Meno*, Socrates advises his interlocutor that godness involves a person understanding ‘how to welcome their guests (fellow-citizens or strangers) and help them on their way, as a good man should.’⁸ For those from whom the West receives a great deal of

⁵ See Hugh Lloyd-Jones, *The Justice of Zeus*, Berkeley: University of California Press, 1983. Adorno and Horkheimer comment in the *Dialectic of Enlightenment*: ‘In Homer the gift which accompanies hospitality falls midway between exchange and sacrifice...the gift to the host anticipates the principle of equivalence...The extensive but perilous nautical activities of the early Greeks were the pragmatic reason for the custom. Even Poseidon, Odysseus’ elemental foe, thinks in terms of equivalence’. Adorno, T., and Horkheimer, M. (ed. Noerr, G.S., Trans. Jephcott, E.) *Dialectic of Enlightenment: Philosophical Fragments*, Stanford: Stanford University Press, 2002, p. 39.

⁶ See the introduction by Bernard Knox to Robert Fagle’s translation of *The Odyssey*, London: Penguin Books, 1996, p. 29. In relation to both the *Iliad* and the *Odyssey*, however, *abuse* of hospitality is as much at issue as the protection of strangers.

⁷ *The Odyssey* p. 209.

⁸ Plato, *Protagoras and Meno*, London: Penguin Books, 2005, p. 120. It might be noted that much of the tradition of hospitality in Ancient Greece pertains to helping people ‘on their way’, not in offering permanent refuge – Orestes, Odysseus to name two examples.

its foundational political-philosophical axioms, the theme of hospitality is of vital importance. One might even argue that *asylum* - the right to refuge, the ethics of hospitality - is close to being the leitmotif of Attic tragedy – the search for somewhere to belong, or for safe harbour.

What is the nature of this Greek generosity, at least the self-image of that generosity? Pericles in the 'Funeral Oration' gives it a particular character:

We make friends by doing good to others, not by receiving good from them. This makes our friendship all the more reliable, since we want to keep alive the gratitude of those who are in our debt by showing continued good-will to them: whereas the feeling of one who owes us something lack the same enthusiasm, since he knows that, when he repays our kindness, it will be more like paying back a debt than *giving something spontaneously. We are unique in this. When we do kindness to others, we do not do them out of any calculations of profit or loss: we do them without afterthought, relying on our free liberality.*⁹ [emphasis added]

Thus Pericles' encomium to Athens – a city 'open to the world'¹⁰ - places an-economic generosity and kindness at the heart of the life of the polis. This could recall the non-reciprocity at the heart of Levinas's ethics; goodness is not the requirement of reciprocity (*pace* Aristotle, Rawls, Buber) but rather is gratuitous, a giving without calculation or expectation of reward (even if, following Derrida, one can note the impossibility of the pure gift ever arriving as such).¹¹

It needs to be noted that this is but one thread of Greek tradition that can be traced. Not only would a kind and reasonable (yet fundamentally measured) Greek ethos be as valid (in fact the dominant understanding), but beyond Homeric hospitality, Pericles' oration and Aeschylus' heights of tragedy, should be noted a political savagery. The widespread practice of slavery certainly sets a limit to the gracious generosity of the Greeks; and the same history by Thucydides includes the 'Melian Dialogue', wherein the Athenians give the proof to Thucydides' famous maxim – that the strong do as they will and the weak suffer as they must – by slaughtering the male inhabitants of Melos, and enslaving the women and children.¹² Bonnie Honig notes that 'In classical political thought, foreignness is generally taken to signify a threat of corruption that must be kept out or contained for the sake of the stability and identity of the regime.'¹³ As Jean-Luc Nancy and Phillipe Lacoue-Labarthe

⁹ Thucydides, *History of the Peloponnesian War*, London: Penguin Books, 1972, p. 147.

¹⁰ *History of the Peloponnesian War*, p. 146.

¹¹ Derrida, J., *Given Time: 1. Counterfeit Money*, Chicago: University of Chicago Press, 1992, p. 8 and pp. 13-14. The lack of the 'purity' of any gift – no gift can be pure, because any gift always enters into a circle of return to the giver, even if they simply become aware of themselves as giver – is true in a formal logical sense, but would not annul the intentionality of a giver who does not set out to give expecting reciprocal return in their act – a gracious or mad act that suspends the logic of calculation, or seeks to. On this point, the 'purity' evinced in several Derridian themes – the gift, forgiveness, and indeed hospitality – can seem unconvincing at times; as a clarifying concept against one can measure actual instances of giving, it retains its usefulness, but as the annulment of the possibility of the gift as such, the language needs to be carefully constructed in order not to negate the idea of a giving that does not set out from reciprocity, even if it is inevitably ensnared within it. Must one not believe that the giver sometimes does not want anything back, even if they cannot escape the circle of economy that will pursue them to the ends of the Earth, even if just to inform them that they have become a giver?

¹² *History of the Peloponnesian War*, Book Five, paragraphs 84-116.

¹³ Honig, B., *Democracy and the Foreigner*, Princeton: Princeton University Press, 2001, pp. 1-2.

observe, there is more than one idea of Greece – not only of measure and clarity, but also of myth and savagery.¹⁴

But yet another idea of Ancient Greece, by the lights of Pericles' oration and exploring how his claims might signify in Greek tragedy, is pursued here – an enacting of grace, the tracing of an an-economic *ethos*. Perhaps the pre-eminent moment in the Greek literature of asylum and welcome, occurs in the third play of *The Oresteia*, *The Eumenides* (which translates as 'The Kindly Ones'). Why might it be pre-eminent? Because the ending of Aeschylus' trilogy is also a founding – the birth of the just polis, the performative enactment of the space in which asylum will be granted, the ground of democratic contestation in which all such decisions can be mediated and judged. Yosal Rogat wrote that 'the Western world has never ceased to be preoccupied with the central problem of the Oresteia. It has characteristically reacted to a deep moral disorder by attempting to impose a legal order upon it.'¹⁵ Ambiguity is a decisive feature of both the politics of asylum and Attic tragedy¹⁶ – it is thus not surprising that as mentioned previously, asylum/refuge is arguably the leitmotif of most of the great tragedies. Tragedy stages the ambiguity at the heart of decision-making between competing claims to what is just in the context of asylum, its scope, nature and limits; thus reflecting on tragedy might be seen as an ideal means of interrogating the difficulties pertaining to these questions.

Contrary to Nietzsche's view in *The Birth of Tragedy* (where Aeschylus is portrayed as a great tragedian, and Euripides as a rationalist who betrays tragic art), *The Eumenides* brings a tragic cycle to a reasoned close with the creation of the just polis via the jury trial of Orestes, presided over by Athena; rather than a tragic bloodbath, the outcome is the establishment of an orderly process for justice to be realised.¹⁷

Aeschylus and Aristotle should be understood as in agreement on this point. Both see justice as integral to the founding of the polis. Justice should not be thought of as incidental or supplemental to the political, but coterminous with it. Andrew Benjamin (whose work will be considered further below) notes that for Aristotle there is a regulative principle within the polis, and that principle is justice. 'Justice is in this sense intrinsic to, and cannot be thought other than in relation to, the good of the polis.'¹⁸ But more than a founding, the conclusion of the trilogy represents a moment of interruption and gracious allowing as the form which justice takes.

¹⁴ Lacoue-Labarthe, P., and Nancy, J.-L., (trans. Holmes, B.) 'The Nazi Myth', *Critical Inquiry*, Vol. 16, Winter 1990, p. 301.

¹⁵ Rogat, Y., *The Eichmann Trial and the Rule of Law*, Santa Barbara, CA: Center for the Study of Democratic Institutions, 1961. Quoted in Butler, J., 'Arendt's Death Sentences', *Comparative Literature Studies*, Vol. 48, No. 3, p. 284.

¹⁶ Tragedy played an important part in the life of the Athenian polis, which can be seen in part as a *theatrokratia* in the sense of the theatre's role in Athenian political self-understanding. As Michael Janover puts it, 'Tragedy enacts and engages a concrete, dramatic and necessarily uncertain reflection that can explore paradoxes of judgment and fatal misdirections in action perhaps more fruitfully than can thinking directed to immediate outcomes in practice, or than philosophy dedicated to rational certitude through abstraction'. Janover, M., 'Mythic Form and Political Reflection in Athenian Tragedy', *Parallax*, 2003, Vol. 9, No. 4, pp. 41-51.

¹⁷ On the strangeness of Nietzsche's assertion that Aeschylus is the more tragic artist, see the Introduction by Michael Tanner in Nietzsche, F., *The Birth of Tragedy Out of the Spirit of Music*, London: Penguin, 2003, pp. xiii-xiv.

¹⁸ Benjamin, A., *Place, Commonality and Judgement: Continental Philosophy and the Ancient Greeks*, London: Continuum Books, 2012, p. 43.

Hounded by the Furies for the vengeful murder of his mother Clytemnestra (who had killed his father Agamemnon in revenge for his killing of their daughter Iphigenia), Orestes seeks refuge in the city of Athena. Eric Havelock describe the shift in Athena's role that this provokes:

Sanctuary, reached by Orestes in her temple as approved by the antique *nomos*, is her province; the alternative of a judicial trial will require a different authority, even though, as it turns out, she also participates, thus melding old and new.¹⁹

Apollo is Orestes' advocate, the Furies press for vengeance, and a jury of citizens is convened to vote on his fate, with Athena having casting vote in the event of dead-lock. With the final vote tied, Athena must make a decision. She decides in favour of Orestes, securing his release from vengeance. The stated reason she gives is a preference for the male over the female (and thus a privileging of the importance of the death of the father over the mother) – however, it is clear from her earlier parley with the Furies, and her subsequent comments, that justice is her aim. It is a justice that is achieved by grace: an act of mercy that does not calculate, a moment of letting the other be.

However, this interpretation of Athena's act is not standard in the literature; in general, her act is seen as the triumph of measure. Peter Euben in *The Tragedy of Political Theory* articulates the multiple meanings of Athena's justice in this way (certain key phrases to be interrogated below have emphasis added):

In these terms justice has four attributes. First it involves the *reconciliation* of diversities into a restored yet new city. But insofar as reconciliation connotes mere acceptance (as when we say someone was reconciled to their fate), rather than active collaboration, it is too passive. For *justice requires the active complementarity of reciprocity*. This second characteristic connotes a continuous though imprecisely defined sharing of authority and *mutuality of decision*; although it does not posit equality of power, it does preclude domination. Third, justice requires recognition both in the sense of acknowledging the legitimacy of another and, in the sense of perceiving something or someone as the same as previously known. In the former case recognition implies the necessity of taking others into account or giving them due consideration and honor as Athena does with the Furies and Orestes. (She greets them with equal respect and treats them both respectfully throughout the trial.) In the latter instance recognition is an act of identification, as when Electra recognizes her brother, or Clytaemnestra her avenging son, or Athens its tribulation in the portrait of mythical Argos. Finally, justice demands judgment rather than the mechanical cycle of vengeance that marked the Agamemnon and threat-ened the existence of house and city. *Judgment is a question of balance and proportion, of evidence and reflection, of looking backward and forward*. It involves the capacity to see things from another's point of view and so accept the human condition of plurality - and to practice what Hannah Arendt calls representative or political thinking. And, as we shall see, judgment is the faculty that responds to and evaluates action (including drama as a political act).²⁰

Euben's interpretation emphasises reconciliation, reciprocity, proportion, mutuality, balance. These are aspects of measure, which is how the play is generally interpreted – Eagles and Stanford will even

¹⁹ Havelock, E., *The Greek Concept of Justice: From its Shadow in Homer to its Substance in Plato*, Cambridge: Harvard University Press, 1978, pp. 281-282.

²⁰ *The Tragedy of Political Theory*, pp. 81-82.

put it thus: 'The Oresteia is the triumph of the Mean.'²¹ It is not the putting-in-question of measure, but rather it's reorientation – from a measure that meets violence with violence, to a measure that will take the form of reasoned justice in a civil tribunal; as Arendt writes, the solution is 'the foundation of a tribunal which from now on will take it upon itself to maintain the right order and lift the curse of an unending chain of evil-doing which was necessary to maintain the order of the world'.²² The Oresteia is a move from uncivilised state to a civilised process, via the drama of family tragedy: 'Orestes is a revolutionary hero. He labours under his father's curse, he must re-enact its cruelty, but his conscience spurs a sense of responsibility to his people, and he leads them to the *city of the rights*. [emphasis added] His guilt becomes the basis of Athena's greatness'²³, a goddess who now embodies justice and compassion.²⁴ This greatness is bound up with justice and the political: 'The trilogy is about the emergence of justice as a distinctive aspect of political life.'²⁵

The Oresteia enacts a struggle between the heroic ethic and the life of the household, where both modalities of life risk unbalancing the social order: 'Each without the other is myopic and incomplete. In the absence of reciprocity each goes to extremes and excess, thereby overthrowing house, city and nature. To flourish, men and women must limit and complement each other. Mutuality is what justice means and what a rightly ordered polis enshrines (though that is not the literal meaning of dike).'²⁶ Euben recapitulates here the gendered nature of the struggle that the trilogy stages; The heroic ethic is violent and wild, but the household provide (or risks) confinement and attachment. Justice here is mutuality and measure between these competing forces, that which is rightly ordered.

But why is Athena's new order rightly ordered, that is, just? The cycle of vengeance has been replaced by a fair tribunal, and human dignity is preserved in the delimitation of violence and the recognition of the vulnerability of the suppliant; Dikē itself has been tempered and reoriented.²⁷ Justice within the state requires judgement, but judgment between conflicting forces, which 'remains the medium of our destiny'.²⁸ As noted above, the image of the just Greeks should not be overstated – the newly ordered Athens that Aeschylus describes and which Pericles lauds is also the city which will:

[...] rouse the Spartan columns and bring Athens to her knees. She would turn, as her new ally had turned, from an international victory to a fatal civil war. And her demise could only be hastened, especially in the eyes of later ages, by those urgings of Athena towards the end of The Eumenides which seem to launch an expansionist, imperialistic Athens on her way.²⁹

Thus whether Athena has instantiated a state that is truly just remains a problematic question. But the way in which she brings that state into being – the manner in which she conceives of justice – remains provocative in the context of the articulation of a just politics of asylum, which will now be explored.

²¹ Aeschylus (trans. Fagles, Robert, Introduction by Fagles and Stanford, W.B.) *The Oresteia: Agamemnon, The Libation Bearers, The Eumenides*, London: Penguin Books, 1979, p. 91.

²² Arendt, H., *Responsibility and Judgment*, New York: Schocken Books, 2003, p. 152.

²³ *The Oresteia*, p. 20.

²⁴ *The Oresteia*, p. 23.

²⁵ *Tragedy of Political Theory*, p. 34.

²⁶ *Tragedy of Political Theory*, p. 75.

²⁷ *The Oresteia*, p. 21.

²⁸ *The Oresteia*, p. 94.

²⁹ *The Oresteia*, p. 92.

Grace beyond Justice

The argument pursued here is that one can perhaps glimpse, in the interstices of the finale to the *Eumenides*, the realisation of a radical attitude to justice – a making-manifest of grace at a court of justice. But this needs to be carefully explained, as an unusual reading of this play so bound up with the notion of measure. Why the interstices? Because Athena gives her reason for sparing Orestes – the privileging of the male over the female: ‘no mother gave me birth.’³⁰ But at the heart of her decision, there would seem to be an experience of the pure moment of aporia – of no place to go, no way for justice to decide by weighing evidence and interests. With the vote of the Athenian jurors tied, she must de-cide, that is, cut the knot of indecision. What is the true purpose of her decision? *Is it to save and to privilege that which is male, or to bring into existence a new modality of justice for the Athenian people? Or both?*

The former interpretation must be granted as guiding her decision – it is explicit in the play, which is bound up with a number of struggles between male and female, patriarchy and matriarchy, state and family³¹. There are contradictory gestures at work – while she spares the male in the form of Orestes, she grants special place to the female Furies in the foundation of the new Athens. But the latter – a re-founding of justice – would seem, from statements before and after the trial, to give a significantly different meaning to her gesture. Justice understood as a cycle of retribution is ended, and replaced with a fair legal order to give the vulnerable suppliant (who is also guilty of matricide) a hearing. Lines 681-725 of the *Eumenides* articulate Athena’s desire, prior to the trial, for the founding of a court of ‘Neither anarchy nor tyranny’; indeed she exhorts them to ‘Worship the Mean, I urge you’³² – that is to say, measure and scales, the work of justice. And after the trial:-

Athena: Do you hear how Fury sounds her blessings forth,
How Fury finds the way?
Shining out of the terror of their faces
I can see great gains for you, my people.
Hold them kindly, kind as they are to you.
Exalt them always, you exalt your land,
your city straight and just –
its light goes through the world.³³

The city has been made ‘straight and just’, bringing gains for the citizenry, by a double act of kindness – towards Orestes, and towards the Furies themselves: ‘This peace between Athena’s people and their

³⁰ *The Oresteia*, p. 264. It must be emphasised that the present reading relates to the interstices, the less emphasised elements in standard readings and the recapitulation of interpretation within the horizon of asylum as a theme in tragedy, and is seen by those lights. The problematic relegation of the death of the mother to second place behind that of the father, and the historical context of Ephialte’s reforms to the Areopagus, are vitally important to think in this context (but are already much commented-upon). See for example Hall, L.G.H., ‘Ephialtes, the Areopagus and the Thirty’, *The Classical Quarterly*, Vol. 40, No. 2 (1990), pp. 319-328.

³¹ *The Tragedy of Political Theory*, p. 68.

³² *The Oresteia*, p. 262.

³³ *The Oresteia*, p. 274.

guests must never end.’ The Furies, triumphant, cry out that they ‘achieve humanity at last, nestling under Pallas’ wings’.

The move in the play from a world of violent vengeance to that of ordered, just civilisation could serve as the very image of the just politics that unfolds as an *ethos* of responsibility. Orestes, though not a refugee in the sense of claiming permanent residence (he immediately leaves Athens following the decision in his favour and returns to Argos, promising its loyalty to Athens – this promise itself a kind of reciprocity, it must be noted³⁴), is a vulnerable suppliant, fleeing persecution and violence, seeking asylum and refuge from that violence, release from the danger, and to achieve this he crosses borders. Thus while the analogy of Orestes with the modern asylum-seeker should not be carried too far – he is an elite member of a royal household caught in a tragic cycle of vengeance – nevertheless he is a similar figure to the involuntary manslaughterer that Levinas discusses in the context of Cities of Refuge (as seen in Chapter Four), where the Jewish Cities of Refuge also undo the cycle of vengeance by admitting the killer and denying their pursuer satisfaction.³⁵

Orestes is a stranger, a foreigner, one who, as someone on trial for their life, puts the city and the just nature of its institutions in question, as Derrida observes concerning the trial of Socrates.³⁶ What rights can Orestes claim from Athens, which is to say, why should a foreign ‘man’ be granted anything by its ‘citizens’? Orestes is manifestly not a citizen, but he stands before the tribunal in all his vulnerability; and his fate is in the hands of the citizenry, who are deadlocked as to the decision. Is not the drama of the division between man and citizen enacted here? The citizens, representatives of the state, are unable categorically to decide for or against him; something else must supervene if he is to be spared – a ‘heavenly’ principle intruding into the affairs of the human, a moment of transcendence. And does not Athena, in casting her ballot for Orestes, choose to affirm the Rights of Man – that is, the rights of foreigners not possessing citizenship who flee persecution – as a responsibility of the city, *and that this decision is that which makes the city just?* Eagles and Stanford: ‘Athena commands her people not only to repel injustice but to preserve the *rights of men*.’³⁷ [emphasis added] Men, not citizens; this decision even puts the city (and thus the interests of the citizens) at risk, as the Furies after the trial threaten vengeance upon Athens: ‘now for Justice, Justice! – cross the face of the earth the bloody tide comes hurling, all mankind destroyed.’³⁸ That is, the decision to be responsible for the suppliant required *taking a risk*, the putting of the city into question; Athena resolves this by bringing the Furies into the city, converting them into the Kindly Ones.

Therefore, Athena’s vote for Orestes can be understood as the establishment of a new political principle that will preserve the rights of man and institute a new practice of justice. But what is the nature of her decision? Eagles and Stanford wrestle mightily with this problem: ‘The one who has just endorsed the Mean could scarcely strike a more one-sided, more Olympian stance’³⁹; the decision is hard to understand in the context of the emphasis on measure throughout the trilogy, and

³⁴ But is that reciprocity anticipated, or factored, in Athena’s gesture of his release from danger? She does not mention it. I thank Michael Janover for recalling me to the potential reciprocity lurking in Orestes’ promises to Athens.

³⁵ As Judith Still observes, ‘King Odysseus might look like just another beggar when he most needs hospitality’ – as a figure of the stranger, even tales of elites may be instructive in this context, as different types of strangers may all evoke a strange-ness in their own way, and a political question of hospitality. See Still, J., *Derrida and Hospitality: Theory and Practice*, Edinburgh: University of Edinburgh Press, 2013, pp. 6-7.

³⁶ Derrida, J., ‘Foreigner Question: Coming from Abroad/from the Foreigner’, *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, Stanford: Stanford University Press, 2000.

³⁷ *The Oresteia*, p. 81.

³⁸ *The Oresteia*, p. 266.

³⁹ *The Oresteia*, p. 81.

'the issues are complex, and certainty is probably out of reach'.⁴⁰ They offer some suggestions: 'Athena may be defending Zeus.... She may say, in effect, the murder of a husband by a wife is worse than the murder of a mother by a son, and so she may lend support to the ties of marriage, a civic institution, rather than the ties of blood.'⁴¹ But they are not convinced of this reading entirely: 'Then why does Athena cast her ballot for Orestes?...a later age would ascribe Athena's action to mercy pure and simple, however, Aeschylus would have her act according to the mercy of her means, her strict sense of equity'⁴².

The perplexity they evince on this point is compelling, and their understanding of the play can hardly be faulted, governed as it is by an interpretation of just politics as guided by the Mean. But is it not possible to put forward another interpretation of Athena's gesture, one which accords with their own view quoted above that Athena here aims at the preservation of the 'rights of men'? The bloody 'Justice' of the Furies is replaced by the Justice of a civil tribunal advocated by Athena – but in order to achieve this new state of justice, the decision to spare Orestes is made, a bloodless counter-measure similar to Walter Benjamin's notion of 'divine violence' (more on this below). And this decision to spare life is not itself of the order of justice, that is, of weighing and calculating, because here measure is momentarily suspended – contrary to the will of the Furies, who demand the death of Orestes to balance the scales for his matricide, Athena's gesture is, in the words of Fagles and Stanford, 'one-sided' – *the scales are not balanced*. Even in the statement that the male will be privileged, there is not measure for measure, male and female weighed equally – Athena's decision will leave Orestes' act unpunished. An interruption to the course of events has occurred to create the rule in Athens of Athena's justice, a different justice to that of the Furies, one which recognises something more than the demand to balance the scales. Beyond the limit of justice, but in the name of justice, there is something else – *grace*, something freely given, a grace that 'belongs to moral sentiments' (Schiller), the suspension of measure in the name of the protection of human life (as well as the life of the polis, which cannot prevail where private vengeance is permitted) which founds the very practices of justice – which is to say, in the heart of indecision, there will be an *allowing*, an erring on the side of life. What lies at the heart of a just politics in the moment of decision is not itself justice - which can no longer weigh and measure but must de-cide - but rather grace. At the core of this play about measure and counter-measure, in the very movement from one form of measure to another, there is a moment that suspends⁴³ measure – a moment of *graciousness*. This scission or caesura is the radical centre, the displacing, lovingly violent heart of the tragedy that sides with human life in its moment of vulnerability – a certain madness of grace-as-goodness that is anterior to justice, but which founds it and watches over it.

⁴⁰ *The Oresteia*, p. 81.

⁴¹ *The Oresteia*, p. 81.

⁴² *The Oresteia*, p. 82.

⁴³ One might think of this notion of grace-as-suspension in relation to Agamben's rather cryptic remarks about 'inoperativity', a space where politics can be understood 'beyond the economy'. See Agamben, G., *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*, Stanford: Stanford University Press, 2011, especially p. xiii and p. 259. This is a consistent theme of the *Homo Sacer* Series, as expressed in *State of Exception*: 'To show law in its nonrelation to life and life in its nonrelation to law means to open a space between them for human action, which once claimed for itself the name of "politics"' (p. 88). Further below, this theme is taken up in relation to the undoing of law as that which preserves life.

The meaning of this argument in relation to Athena's gesture can be clarified with reference to the work of Levinas and Derrida. What does it do to the idea of justice to think it beyond calculation, and the famous image of blindfolded Justitia holding the scales? What is the relationship of justice to grace (as a move beyond the calculative, that suspends the moment of weighing)? Are they the same thing, is grace antithetical to justice, a modification or perhaps a move beyond it? And how does it relate to Levinas and Derrida's thinking of hospitality?

Even Levinas – a thinker of infinity and ethical excess - thought that justice was the moment of the 'Third', that is, one person choosing between two others who place competing demands on one's solicitude, necessitating a weighing and judging between them – and therefore calculation⁴⁴. But this moment of rendering justice occurs within the context of the preliminary affirmation of the other in their infinite vulnerability – a pre-calculative moment, where goodness precedes justice. It is only in having to choose between competing claims of vulnerability that justice, and judgement, becomes necessary.⁴⁵ Yet this judgement, when rendered at court, must for Levinas be governed by an attitude of grace, which would gesture back to the original affirmation of the other, prior to the calculation of decision – justice as calculation or weighing is cast here as inadequate:

There also remains the question of determining whether the limitation of rights by justice is not already a way of treating the person as an object by submitting him or her (the unique, the incomparable) to comparison, to thought, to being placed on the famous scale of justice, and thus to calculation.⁴⁶

In a collection of essays entitled *New Talmudic Readings*, Levinas explores the link between the court and grace, or what he refers to as the human court and the heavenly court.

Human courts thus would deal with the faults which cast us out of the human and would repair the irreparable. Can a court do as much as mercy or Grace can do? Is Grace manifest at court?⁴⁷

He goes on to write:

To be responsible for the neighbor, to be the other's keeper – contrary to the Cainian vision of the world - defines fraternity. It is at the court, which reasons and weighs, that love of the neighbor would be possible.⁴⁸

Justice, for Levinas, should be more than weighing and calculation:

To limit oneself, in the matter of justice, to the norm of pure *measure*, or *moderation*, between mutually exclusive terms, would be to revert to assimilating the relations

⁴⁴ Levinas, E., *Otherwise Than Being or Beyond Essence*, Pittsburgh: Duquesne University Press, 2008, p. 16.

⁴⁵ 'In the meeting with the face, it was not one's place to judge: the other, being unique, does not undergo judgement; he takes precedence over me from the start; I am under allegiance to him. Judgement and justice are required from the moment the third party appears. In the very name of the absolute obligation towards one's fellow man, a certain abandonment of the absolute allegiance he calls forth is necessary.' Levinas, E., *Entre Nous: Thinking-of-the-Other*, New York: Columbia University Press, 1998, pp. 202-203.

⁴⁶ Levinas, E., 'The Rights of Man and the Rights of the Other', in *Outside the Subject*, Stanford: Stanford University Press, 1993, p. 122.

⁴⁷ Levinas, E., *New Talmudic Readings*, Pittsburgh: Duquesne University Press, 1999, p. 56. The reference to human courts repairing the human would seem out of place – but Levinas seems to be arguing that it is a transcendent principle (grace) that must enter into human courts in order to do so.

⁴⁸ *New Talmudic Readings*, p. 57.

between members of the human race to the relation between individuals of logical extension, signifying between one another nothing but negation, *additions* or indifference.⁴⁹ [emphasis added]

There is thus a justice of a different order that needs to intervene in order to escape the logics of ‘additions or indifference’:

Divine justice itself would have to be manifest in an earthly court to cloth[e] itself in human fraternity. One has...more confidence in this mercy or grace than in pure strictness.⁵⁰

Divine justice involve a kind of '[...] loving, which occurs beyond economic activity and the world.⁵¹ When Aristotle writes in the *Nicomachean Ethics* of the ‘Temple of the Graces’, the purpose of the Graces was not a grace that suspends measure, but rather to encourage the continuation of generous reciprocity – to requite good for good and to maintain this virtuous cycle⁵², in order to ‘take the lead in showing kindness ourselves’.⁵³ But as has been seen, for Levinas goodness has nothing to do with reciprocity, but is rather spontaneous, gratuitous, a response to the other where the other’s responsibility for me is not my concern. The human being at risk of death manifests an interiority of resistance to calculation: ‘...interiority is the refusal to be transformed into a pure loss figuring in an alien accounting system’.⁵⁴ Even Edmund Burke (discussed in the Introduction as firmly on the side of prudential moderation) referred to the ‘unbought grace of life’ – life has a value that cannot be calculated.⁵⁵ The ‘escape’ from Being that Levinas seeks is an escape from the human being that is unconcerned with the incalculable uniqueness of the other person: ‘Ethics... would be the expansion of that ontological contraction that is expressed by the verb to be, dis-inter-estedness breaking the obstinacy of being, opening the order of the human, of *grace*, and of sacrifice.’⁵⁶ [emphasis added]

Kant’s view of a beneficence beyond measure was discussed in Chapter One – the difference between price and dignity. Arendt refers in her lectures on Kant’s political philosophy to the story

⁴⁹ *Outside the Subject*, p. 124.

⁵⁰ *New Talmudic Readings*, p. 56.

⁵¹ Levinas, E., (trans. Lingis, I. Foreword by Bernasconi, R.,) *Existence and Existents*, Pittsburgh: Duquesne University Press, 2001, p. 35. On the theme of love going beyond moderation, Derrida writes in the *Politics of Friendship* that love ‘[...] exceed[s] the very principle of a calculation. It will *perhaps* introduce a virtual disorder in the organization of the Aristotlean discourse.’ Derrida, J., *Politics of Friendship*, London and New York: Verso Books, 1997, p. 10.

⁵² Aristotle, *Nicomachean Ethics*, London: Penguin Books, 2004, p. 124, 1133a.

⁵³ For a discussion of the role of grace as this kindly reciprocity, see Gallagher, R.L., ‘The Role of Grace in Aristotle’s Theory of Exchange’, *Methexis*, Vol. 26, No. 1, 2013, pp. 143-162. Gallagher points out that ‘Aristotle would have us compete in being kind and grateful’, and that ‘the kindness is not gratuitous, but meets a need’ (p. 146). This is indeed a virtuous ethic, something to aspire too – but nevertheless contains ‘grace’, *charis*, within reciprocity, and thus is not *gratis*, freely given, and remains bound to the actions of others. For Levinas, the responsibility of the other person is not my concern, only my own responsibility for others is; this is a fundamental point of difference with Aristotlean ethics. It is the undoing of reciprocity that reveals the fundamentally radical nature of Athena as represented in the *Oresteia*, in relation to Athenian mores, which is why her gesture can be interpreted as a manifestation of grace in the sense of undoing the calculative. For while other of her actions and statements in the trilogy conform to the logic of the mean, this does not seem to hold at the moment of her decision over the fate of Orestes, which privileges the male but also establishes criterion for the justice of the polis – an *allowing*, on the side of life, in the face of democratic impass.

⁵⁴ Levinas, E., *Totality and Infinity: An Essay On Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 56.

⁵⁵ Burke, E., *Reflections on the Revolution in France*, London: Penguin Books, 2004, p. 170.

⁵⁶ Levinas, E., (trans. Smith, M.B. and Harshaw, B.) *Entre Nous : Thinking of the Other*, New York : Columbia University Press, 1998, p. 202.

Kant recounts of the miser counting the profits who turns away from mankind, only to find himself expelled into an endless void, where the only thing he then desires would be any human contact at all.⁵⁷ This is resonant with Derrida's view: the other is a duty beyond debt.⁵⁸ This distance between price and dignity, the calculative attitude as a risk of manifesting the inhuman, is precisely what Levinas countermands as the meaning of the human in his ethics – recall that he suggests that ethics has to do with:

...worrying about the other, a spending without counting, a generosity, goodness, love, obligation towards others. A generosity without recompense, a love unconcerned with reciprocity; duty performed without the "salary" of a good-conscience-for-a-duty-performed, without even the good conscience of being the bad-conscience-of-the-duty-not-performed! All duties are incumbent upon me, all rights first due to others... It is an ethics without eudemonism.⁵⁹

Such a suspension of the calculative is enacted in the *Oresteia*. Apollo, the advocate for Orestes, and Athena the dispenser of graceful allowing, the letting-be of Orestes: the Gods, following Zeus, favour *xenia*, the love of the stranger, and this orients their approach, beyond a formal impartiality. (Plato writes in *The Laws* that 'The most serious of offences against foreigners or natives is always that affecting suppliants; the god the victim supplicated and invoked when he won his promise becomes a devoted protector of his supplicant'.)⁶⁰

It is as though Athena gives an answer to the merely assertoric nature of saying that one should say yes, be nice, gracious, welcoming, open and so on. A state can reverse Athena's decision, but on peril of dissolving its own legitimacy and even greatness. For Athena/Aeschylus, to have a city worth living in, the just moment of gracious allowing must be one's first impulse towards the other who comes from without. Otherwise one gives way to the Furies and their vengeful violence, and to a necropolis, a city of the dead, or a living city with the dead piled around its walls. And what Fagles and Stanford see as the unbalanced nature of the decision is proper to decision itself, as Derrida observed:

Because every decision (by its essence a decision is exceptional and sovereign) must escape the order of the possible, of what is already possible and programmable for the supposed subject of the decision [...].⁶¹

Thus whether Athena's gesture is granted meaning depends upon the conception of the political at work. Derrida notes that 'the foundation of the town or the city, the origin of the political, the original social contract and sovereignty' are bound up with a certain wolfishness, as it was for

⁵⁷ Arendt, H., *Lectures on Kant's Political Philosophy*, Chicago: University of Chicago Press, 1992, pp. 11-12. Taken from Kant, I., *Observations on the Sublime and the Beautiful*, trans Goldthwait, pp. 48-49. The relevant passage can be found in the Cambridge edition edited by Frierson, P. and Guyer, P., pp. 16-17.

⁵⁸ See the Introduction by Françoise Meltzer to *Signature Derrida*, Chicago: University of Chicago Press, 2013, p. xxvii.

⁵⁹ *Outside the Subject*, p. 87.

⁶⁰ Plato, *The Laws*, London: Penguin Books, 2004, p. 148 (for the discussion of justice and happiness, see pp. 53-56). Between the suppliant and the God there is a kind of reciprocity or exchange, but the presence of the God in the exchange would point to a form of measure beyond the earthly; what is being exchanged is not human economics, but human devotion for a non-human principle. This would recall the discussion about transcendence in Chapter One and the present chapter, but nevertheless the formal reciprocal structure of the suppliant to the God should be noted.

⁶¹ Derrida, J., (trans. Bennington, G.) *The Beast & The Sovereign: Volume 1*, Chicago: University of Chicago Press, 2009, p. 33.

Hobbes.⁶² That is, a certain violence and aggression, and a fear of the other person, founds the political on this schema.

Levinas called this conception of the political into question:

Can we deduce institutions from the definition of man as “a wolf for man”, rather than the hostage of the other man? What difference is there between institutions arising from a limitation of violence and those arising from a limitation of responsibility? There is, at least, this one: in the second case, one can revolt against institutions in the very name of that which gave birth to them.⁶³

That is to say, that the conception of the political depends upon whether one sees the other person as a threat to, or a responsibility for oneself (or both!); it is *possible* to articulate an ethos of sovereignty that issued from responsibility as opposed to self-interest and self-preservation. And there is no ultimate ground for deciding between these positions, except to say that the responsibility ethos aims at justice, and posits human dignity as the *telos* of the polis. And while for Hobbes the delimitation of violence is achieved precisely by the founding of the state (and to be sure, prior to which, violence reigned in the state of nature), this conception of the political begs the question first identified by Arendt, which was discussed in the first chapter - what to do with those who fall outside of the immediate purview of the state? How to mediate between those within and without?

This is where the link between these Continental thinkers and Athena can be clearly articulated. Athena’s gesture towards Orestes is a *yes* – an affirmation of his right to refuge. What she makes explicit is a law above the laws of the state, directly analogous to what Derrida writes of the law of ‘unconditional hospitality’: ‘The law is above the laws...conditional laws would cease to be laws of hospitality *if they were not guided, given inspiration...by the law of unconditional hospitality.*’⁶⁴ [emphasis added] In a moment of seeming hyperbole in *Of Hospitality*, Derrida writes:

Let us say *yes to who or what turns up*, before any determination, before any anticipation, before any *identification*, whether or not it has to do with a foreigner, an immigrant, an invited guest, or an unexpected visitor, whether or not the new arrival is a citizen of another country, a human, animal, or divine creature, a living or dead thing, male or female.⁶⁵

It is this *yes*, this preliminary affirmation and welcome, that puts at risk the logic of measure and moderation.⁶⁶ Derrida identifies an antinomy between the ‘unconditional law of hospitality’ and actual existing law. The ‘yes’ cannot even be seen as a duty: ‘For to be what it “must” be, hospitality must not pay a debt, or be governed by a duty; **it is gracious**... if I practice hospitality “*out of duty*”...this hospitality of **paying up** is no longer an absolute hospitality, it is no longer **graciously** offered beyond **debt and economy**’.⁶⁷

Why grace, rather than mercy? And how might the meaning of a grace, or mercy, beyond measure, be understood? Perhaps a different play, and a different trial, might help to make the point – Shakespeare’s *The Merchant of Venice*. In this play the logic of calculation, and the need for its

⁶² *The Beast and the Sovereign: Volume 1*, First Session (esp. p. 11).

⁶³ Levinas, E., *God, Death and Time*, Stanford: Stanford University Press, 2000, p. 183.

⁶⁴ Derrida, J, *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, Stanford: Stanford University Press, 2000, p. 79.

⁶⁵ *Of Hospitality*, p. 77.

⁶⁶ The ‘yes’ for Derrida is always ‘yes, yes’ - it implies its own repetition.

⁶⁷ *Of Hospitality*, p. 83. Emphasis added in bold to distinguish from Derrida’s own italics.

suspension, is taken to the limit of physical endangerment, in the demand made by Shylock (an appalling anti-semitic stereotype, to be sure) for a 'pound of flesh' from Antonio. When Shylock asks Portia why he should release Antonio from the obligation: 'In virtue of what obligation, what constraint, what law must I be merciful?' - she replies:

*The quality of mercy is not strain'd
It droppeth as the gentle rain from heaven
Upon the place beneath. It is twice blest,
It blesseth him that gives and him that takes.
'Tis mightiest in the mightiest, it becomes
The throned monarch better than his crown.
His sceptre shows the force of temporal power,
The attribute to awe and majesty,
Wherein doth sit the dread and fear of kings;
But mercy is above this sceptred sway,
It is enthroned in the hearts of kings,
It is an attribute to God himself,
And earthly power doth then show likest God's
When mercy seasons justice.⁶⁸*

As in Aeschylus, Shakespeare here attributes mercy to an act that is divine; It is the purview of God or the Gods, something above human bounds of calculation and the everyday, a transcendent principle. Beyond a religious signification, this might also be thought of as an instantiation of the infinite/transcendent (Levinas) or the impossible (Derrida), that which is beyond the ordinary limits of the human. It is proper to the *telos* of the sovereign that merciful justice be shown – 'enthroned in the hearts of kings'.

But here a potential etymological problem arises: mercy is derived from the Latin root for reward, *merces*, linked to wages or merc-handise; even mercy remains bound, then, in its root meaning, to the calculative. Thus in pursuing the logic of the an-economic notion of justice suggested by Levinas-Derrida, a modification is needed: if mercy seasons justice, then grace must season mercy. Grace is derived from the Latin *gratis*, something freely given, and beyond the calculative.

The gap between mercy and grace is something to which Derrida and indeed Levinas are perhaps not attentive enough, although it is somewhat understandable to view these concepts or terms as very close or even coterminous in meaning. 'When mercy season justice' is Derrida's theme in his paper 'What is a "Relevant" Translation?' Derrida analyses this line in the context of a thinking

⁶⁸ Shakespeare, W., *The Merchant of Venice*, London: Penguin Books, 2005, p. 75.

of economy in relation to translation, but also more generally on the economic themes in *The Merchant of Venice*. Derrida takes grace and mercy together:

This superb speech [Portia's] defines *mercy*, forgiveness, as the supreme power. Without constraint, without obligation, gratuitous, an act of grace, a power above power, a sovereignty above sovereignty, a superlative might, mightier than might since it is a might without might, a respite within might, this transcendent might of mercy rises above might, above the economy of might and therefore above sanction as well as transaction.

In this concatenation of concepts, grace, mercy, forgiveness, and sovereign right all merge into the same. This would seem to constitute a forgetting of the very different meaning of grace, which is not simply mercy, but which in its etymology and meaning is that which escapes the bonds of *merces*, that is, of 'market, merchandise, *merci*, mercenary, wage, reward, literal or sublime'.⁶⁹ Grace is rather *gratis*, gratuitous, free and non-reciprocal, *gratia* (grace, kindness). Derrida is of course not unsympathetic to this view, but he does not rigorously distinguish the terms. The an-economic critique of the economic is arguably an animating impetus of deconstruction, as when he comments in an interview that he resented his father's capture by the world of commerce: '[...] perhaps I am avenging my father by introducing a principle of disorder into this "commerce", whose trial I would also be organising. To do justice to my father – or let's say with a laugh, with our friend Hamlet: "to set it right!"⁷⁰ But to put com(merce) on trial, for it to take the place of the oppressed in the dock, it is necessary to distinguish it from what is beyond commerce.

Robert Jackson, the American prosecutor at the Nuremberg Trials, remarked in relation to the possibility of clemency for the infamous defendants that executive clemency 'is a matter of grace, not of right.'⁷¹ The person to be spared, or not, does not have a right to it – it is a question of grace, of gratuitous decision. But if, following Agamben, it is agreed that the state of exception has become the rule – that the camp is the *nomos* of modern political life, which is to say, those who live in camps, outside of the protection of state law, now number in the tens of millions, who desire refuge in a state – then the exceptional moment of executive clemency has become the everyday business of the state, and the grace that is bound up with executive clemency – if granted – must need enter into the discussion of the Rights of Man. That is to say that 'the sovereignty of mercy and the right of grace'⁷² is bound up with a discussion of justice; the just nature of the sovereign will determine the gracious allowance of the lives of the other persons, who as stateless are the opposite of criminals – Arendt will even call stateless persons 'the absolute innocent ones'.⁷³ To introduce a principle of grace as that which watches over a politics of justice is to *combine grace with right*, in order to institute the 'city of rights'. Can one speak of a right to grace? This would introduce a demand for that which is given freely; grace cannot be commanded, but is the further horizon of justice that makes explicit how questions of human dignity should be resolved – *an allowing that sides with life*.

Grace then is a closer approximation of the meaning one finds in the Levinasian-Derridian gestures pursued here. But even at this point a note of caution must be sounded: Derrida's writings on the gift show that pure giving is impossible – the economy wherein the giver always receives

⁶⁹ 'What is a "Relevant" Translation', p. 364.

⁷⁰ Interview: 'Of the Anti-Semitism to Come', in Roundinesco, E., and Derrida, J., *For What Tomorrow... A Dialogue*, Stanford: Stanford University Press, 2004, p. 108.

⁷¹ Sereny, G., *Albert Speer: His Battle With Truth*, London: Picador, 1996, p. 30.

⁷² 'What is a "Relevant" Translation', p. 376.

⁷³ *Responsibility and Judgment*, p. 150.

something in return cannot be eluded.⁷⁴ And as mentioned above, for Levinas too, the original recognition of the infinite demand that the other places upon the subject, always comes to be tempered by the arrival of the third, and the need to choose – the moment of justice. So even for these thinkers of affirmation and excess, of the infinite and the pure, of aporetic ethics – there is the acknowledgment of inevitable limits. What they seem to intend by their thinking of hospitality is thus not destruction but deconstruction – that is, the suspension, or interruption, of an existing order, in order that an event may happen or come to pass.

Derrida and Levinas, in their desire for an interruption or suspension of the calculative, and even a taste for excessive giving, might be considered anti-Aristotelean in that sense. They call into question what Nietzsche called the ‘tepid temperature which is the presupposition upon which every calculation of prudence or expediency is always based’ – in the emphasis on prudence and measure, perhaps the polis does not go far enough in doing justice to the suppliant other that comes from without.⁷⁵ Another conception of justice, modified by a further horizon of grace, has been elaborated to explain their view. But this moment of divine interruption, which opens up political decision to other possibilities via an act of gracious suspension, requires further clarification. (This is pursued in the next section via a discussion of Walter Benjamin and his notion of ‘divine violence’.)

Between Athena’s gesture and Portia’s soliloquy, there would be something to analyse in these plays as to the nature of grace, or mercy, seasoning justice, and that this gesture in both plays comes from female figures. Is justice (typically presented as a female figure), in its gracious/merciful aspect, the instantiation of a feminine quality of ethical decision-making within the political? Recall from Chapter Two that for Levinas, hospitality itself is feminine (though this is not coterminous with ‘woman’).⁷⁶ Yet in these plays, and in *Antigone*, it is the female-feminine character that undoes earthly principles in the name of a higher principle. In a perceptive essay on ‘Derrida’s Reading of Hegel in *Glas*’, Simon Critchley notes that Antigone ‘exemplifies the femininity of the ethical relation with the other that is not based upon dialectical structures of recognition, reconciliation and reciprocity’.⁷⁷ Antigone, in the ‘femininity of the ethical relation’, represents ‘resistance to totalisation’ that constitutes both the possibility and the impossibility of the Hegelian system, that is to say, reciprocity, reconciliation et al: ‘[...] what cannot be assimilated within the Hegelian system, the abyss, functions as a quasi-transcendental condition of possibility for the system. The peculiar character of Derrida’s transcendental claim is that it not only establishes the condition for the possibility of the system, it also indicates the condition for the system’s *impossibility*.’⁷⁸ These female characters disrupt the dialectic; hospitality as an ethical femininity, is that which resists the totalising gestures of earthly power, in the name of a higher principle which represents a form of *transcendence* – here one is returned to Levinas. As discussed in Chapter Two, Levinas argues for a sense of the political where extra-political criterion for judgment would orient how justice operates; that there is a sense of human dignity, found in sociality, prior to the establishment of political association, ‘and which contains a relation to the divine’ (Howard Caygill’s phrase) – that is, a sense of a principle that transcends the political, but which enters into it and guides it.⁷⁹ To think otherwise is to think that the only principles

⁷⁴ See Derrida, J., *Given Time: 1. Counterfeit Money*, Chicago: University of Chicago Press, 1992.

⁷⁵ Nietzsche, F., *On the Genealogy of Morals*, London: Penguin Books, 2013, p. 15.

⁷⁶ See Derrida’s discussion in relation to Levinas on this point in Derrida, J., *Adieu to Emmanuel Levinas*, Stanford: Stanford University Press, 1997, pp. 36-44.

⁷⁷ ‘Derrida’s Reading of Hegel in *Glas*’, in Critchley, S., *Ethics-Politics-Subjectivity*, London and New York: Verso, 2009, p. 12. Let me record here that Simon Critchley’s 2011 lectures on Greek Tragedy at the European Graduate School, which can be found on YouTube, have been of great assistance to me in forming my overall understanding of Attic tragedy. In an aside in *The Problem of Levinas*, Critchley observes that he keeps failing to finish a book on this subject; one hopes it will arrive soon.

⁷⁸ ‘Derrida’s Reading of Hegel in *Glas*’, p. 13.

⁷⁹ Caygill, H., *Levinas and the Political*, Oxon: Routledge, 2002, p. 152.

that adhere in politics are those which are agreed amongst human beings – but human beings can agree to anything, including the worst. Understanding the meaning of human dignity does not await political sanction; the understanding of which returns the argument full-circle to Arendt, who observes in *The Origins of Totalitarianism*, in that crucial passage on the ‘Perplexities of the Rights of Man’:

Here, in the problems of factual reality, we are confronted with one of the oldest perplexities of political philosophy, which could remain undetected only so long as a stable Christian theology provided the framework for all political and philosophical problems, but which long ago caused Plato to say: "Not man, but a god, must be the measure of all things."⁸⁰

In the *Oresteia*, Athena instantiates the sense of measure that will preserve human dignity and make politics just, a measure that is beyond measure, which orients justice according to a grace made manifest at court.

Divine Violence: The Caesura of Allowing, or the Othering of the World

Walter Benjamin in ‘Towards a Critique of Violence’, coins the phrase ‘divine violence’, ranged in contradistinction to ‘mythic violence’. The latter violence is that which is ‘law-establishing or law-upholding’, actual existing violence in the world that is bound up with the law and is bloody.⁸¹ Divine violence is set against this.

Understanding what Benjamin means by ‘divine violence’ is difficult. Giorgio Agamben has observed that defining it ‘constitutes the central problem of every interpretation of the essay. Benjamin in fact offers no positive criterion for its identification and even denies the possibility of recognizing it in the concrete case.’⁸²

Given this difficulty, it is necessary to proceed cautiously in any attempt to marshal it in politico-philosophical argument. What will be risked here, is an interpretation of divine violence along the lines of work done by Andrew Benjamin on this topic, which links this notion to the gesture of Athena under discussion here.

He writes in *Working With Walter Benjamin*:

‘Moreover, while Benjamin [Walter] does not discuss Aeschylus in any systematic way in his overall writings, it is still clear that if there is a figure of ‘divine violence’ in the Greek world, a figure whose project is to bring to an end the temporality of fate as that which organises both law and subjectivity and thus who has the presence of ‘genius’, it is Athena in the *Oresteia*. Her undoing of the ‘order of law’ in the name of justice is the redemption of justice. Moreover, the displacing of the Erinyes at the end of the *Eumenides* enacts the ‘bloodless’ *counter-measure* – the *counter-*

⁸⁰ Arendt, H., *The Origins of Totalitarianism*, New York: Harcourt, 1976, p. 299.

⁸¹ Benjamin, W., *One-way Street and Other Writings*, London: Penguin Books, 2009, p. 13.

⁸² Agamben, G., *Homo Sacer: Sovereign Power and Bare Life*, Stanford: Stanford University Press, 1995, pp. 63-64.

measure as a form of destruction – that in the context of *Towards a Critique of Violence* marks ‘divine violence’.⁸³

Athena undoes the law in the name of justice. Why is this an instance of divine violence? Later in the same book, Andrew Benjamin writes that ‘justice cannot be disassociated from life, this is after all the project of *Towards a Critique of Violence*’.⁸⁴ Divine violence is that which is done for ‘the sake of the living’; it is ‘bloodless’, and prefers just existence to mere existence, ‘if existence is simply meant to mean bare life’.⁸⁵ It is a ‘counter-measure’, which ‘identifies what is being countered such that a limit is established and an opening emerges’.⁸⁶

All of these elements can be seen in Athena’s gesture towards Orestes. Justice for Athena is understood as bloodless (in holding the Furies at bay), for the sake of the living (in protecting Orestes) and the overcoming of bare life (in granting him refuge within the polis).

This theme is pursued in another text by Andrew Benjamin, *Place, Commonality and Judgement*. There he asks whether there are not ‘conditions of possibility’ of thinking measure that ‘allows for forms of interruption’.⁸⁷ This is linked to place as the site of contestability of *nomos* and *diké*, law and justice. The polis, the city or state, is the place in which the negotiation between law and justice is enacted: ‘The ineliminability of alterity and thus the need to think the possibility of a conception of alterity that involves reconciliation to irreconcilability is that which is staged by the city wall’.⁸⁸

Athena’s gesture is that which suspends, while also preserving, the law: ‘What she makes clear is that while it is possible to suspend the determination of fate this does not mean the abandoning of the law.’⁸⁹

But how is this accomplished? How is Athena’s gesture of divine violence to be understood? One way to understand this gesture would be the evocation of a rather novel syntagm of Andrew Benjamin’s coinage: the ‘*caesura of allowing*’. The gesture of divine violence is also that of an allowing, an interruption or suspension (*caesura*) that produces an event, a space or opening, that lets something happen (allows). And if the achievement of justice is proper to the being of the polis, then the allowing is that which falls on the side of gracious mercy, because to do otherwise is to forestall the possibility of justice.⁹⁰

Athena’s decision occurs in the context of democracy – a panel of Athenians has been convened to vote on the fate of Orestes. Democracy is understood here as that which undoes tyranny – divine violence countering mythic violence:

⁸³ Benjamin, A., *Working With Walter Benjamin: Recovering a Political Philosophy*, Edinburgh: Edinburgh University Press, 2013, p. 82.

⁸⁴ *Working With Walter Benjamin*, p. 172.

⁸⁵ Benjamin, W., *One-way Street and Other Writings*, London: Penguin Books, 2009, pp. 24-26.

⁸⁶ *Nicomachean Ethics*, p. 8.

⁸⁷ Benjamin, A., *Place, Commonality and Judgement: Continental Philosophy and the Ancient Greeks*, London: Continuum Books, 2012, p. 2.

⁸⁸ *Place, Commonality and Judgement*, p. 73.

⁸⁹ *Place, Commonality and Judgement*, p. 73.

⁹⁰ One can readily think of other actions by the Greek Gods that are hardly so gracious. It is within the context that Aeschylus sets here – the relation between the polis, democracy and justice – that the allowing can and should be thought of as affirmative towards life – a gesture of protection and refuge rather than divine caprice. I am thankful to Paul Muldoon for this insight.

Democracy involves the recognition and affirmation of forms of powerlessness – the undoing of tyranny – and the repositioning of power as that which is demanded by the redefinition of justice in terms of *being-in-common*. As such, of course, Athena becomes the exemplary figure of the democracy. Her abdication and her embracing the power of powerlessness is the catastrophe and thus the caesura that allows. She is not external to the creation of the democracy.⁹¹

Thus ‘what is occasioned is a sense of commonality’.⁹² The founding of the place of law, cannot be completely separated from justice, even if justice is not the same thing. Justice is bound up with the life of the city, something that is ongoing; it is ‘a practice...the *negotiation* at the limit of the limit.’⁹³ (emphasis added)

But justice as accomplished via divine violence or the caesura of allowing, needs to be understood as that which is beyond measure. Andrew Benjamin quotes Derrida to this effect:

There is a future for justice and there is only justice to the extent that the event is possible which, as an event exceeds calculation, rules, programmes, anticipations, etc. Justice, as the experienced of absolute alterity, is unrepresentable (*imprésentable*), but that is the chance of the event and the condition of history.⁹⁴

Justice as manifested by Athena is beyond the calculative: ‘the possibility of justice, indeed its only possibility, lies in the presence of a conception of justice defined as that which ‘exceeds’ all forms of calculation.’⁹⁵

Here can be made manifest the connection between Derrida (and Levinas), and Athena’s gesture. Justice is that which goes beyond the limit, beyond calculation and measure: it is the ‘yes to who or what turns up’. That this yes may run into a limit is a secondary consideration, preceded by a preliminary affirmation – a caesura that allows, a divine violence that is a form of grace. What is opened up is also a *possibility*: that the world become other than what it is, at least for the suppliant seeking refuge. Going beyond measure would mean going beyond what is.

This idea of the othering of the world leads back to Walter Benjamin: ‘The Hassidim tell a story about the world to come... Everything will be as it is now just a little different.’⁹⁶ The caesura of allowing, or divine violence, or the Derridian-Levinasian invocation of the impossible, cannot produce an overturning of measure – nor is this even desirable in ethical terms. What is possible is interruption, or opening, suspension of the calculative: ‘What is necessary is a form of interruption that defies an already present economy.’⁹⁷

Walter Benjamin’s notion of divine violence strikes a ‘left-handed blow’ against the world as it is.⁹⁸ Measure would be the form of the continuity and repetition of the world.⁹⁹ One can gather the notions of interruption of measure – divine violence, the caesura of allowing – under the heading of the ‘weak messianic’: ‘Transformation, once it includes the interruption named as the *caesura of*

⁹¹ *Place, Commonality and Judgment*, p. 24.

⁹² *Place, Commonality and Judgment*, p. 20.

⁹³ *Place, Commonality and Judgment*, p. 110.

⁹⁴ *Place, Commonality and Judgment*, p. 131.

⁹⁵ *Place, Commonality and Judgment*, p. 131.

⁹⁶ *Working With Walter Benjamin*, p. 22.

⁹⁷ *Working With Walter Benjamin*, p. 132.

⁹⁸ *Working With Walter Benjamin*, p. 1.

⁹⁹ *Place, Commonality and Judgment*, p. 1.

allowing, of which the Messiah becomes an exemplary figure, is the process of othering.¹⁰⁰ The ‘weak messianic’ refers to the understanding that things can be other than what they are – for example, the past is pregnant with still-born possible pasts, pasts that could have been but never were. It is the always-latent potential for the othering of the world, so ‘rather than taking that which is at hand – the already given – as setting the measure, there needs to be a form of construction. That construction has been thought as an inauguration premised on destruction. In other words, on a generalised level it is that which occurs with (and as) the *caesura of allowing*.’¹⁰¹

Derrida addresses the theme of the messianic in *Specters of Marx*, where in reference to Walter Benjamin he discusses the idea of a ‘messianicity without messianism’ – a horizon of expectation with no determinable content or figure, but which maintains an ‘emancipatory promise’, the ‘yes’ to whoever and whatever turns up as an instantiation of justice as distinct from law:

...what remains irreducible to any deconstruction, what remains as undeconstructible as the possibility itself of deconstruction is, perhaps, a certain experience of the emancipatory promise; it is perhaps even the formality of a structural messianism, a messianism without religion, even a messianic without messianism, an idea of justice - which we distinguish from law or right and even from human rights - and an idea of democracy - which we distinguish from its current concept and from its determined predicates today.¹⁰²

It is necessary to be careful in any interpretation of the ‘Critique of Violence’, in marshalling it in the service of an argument for a kindly humanitarianism. As noted at the beginning of this section, the interpretation of this essay remains open to question – indeed, despite Benjamin’s assertion that divine violence is bloodless, it is not clear from the essay that it always is. Derrida outlines his reservations in his essay ‘Force of Law: The Mystical Foundation of Authority’. Given this interpretive problem, Derrida argues that the notion of divine violence needs to be modified by a horizon of deconstructive affirmation.

Any thinking of the totality of what is in terms of refugees will always have to have reference to an infinite demand – that is, the problem is never totalisable, there will always be an excess; the scales will never quite balance. The justice of the Gods might be seen as referring to this sense of the infinite, of the distance between the limits of mankind and the infinitely demanding – a tension staged also in *Antigone*. The written law would refer to the calculable, and the unwritten law to the incalculable, in terms of the economics of mankind. When Athena dispenses grace, when Antigone buries Polynices against the orders of Creon, these might be seen as instantiations of what Walter Benjamin describes as ‘divine violence’, suspending mythic law, the law that is tied to fate and the decisions of the powerful, an act done for the sake of the living (or in Antigone’s case, the dead borne away in one’s arms). There is a distance between law and justice here. ‘The law that is no longer practiced but is only studied is the gate to justice’, as Walter Benjamin writes about Kafka, which Agamben takes up and refers to as a kind of play:

One day humanity will play with law just as children play with disused objects, not in order to restore them to their canonical use but to free them from it for good. What

¹⁰⁰ *Working With Walter Benjamin*, p. 149.

¹⁰¹ *Working With Walter Benjamin*, p. 168.

¹⁰² Derrida, J., *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, New York: Routledge, 2006, p. 74.

is found after the law is not a more proper and original use value that precedes the law, but a new use that is born only after it.¹⁰³

Law is that which, as the 'Ode to Man' in *Antigone* observes, enables humanity in

...living together

In cities, building him shelter against the rain'.¹⁰⁴

But in the playful interruption of law by justice, of mythic violence by divine violence, of measure by the caesura of allowing - the city can always be other than what it is, an interruption with no other justification than that which is done for the sake of the living, so that they might share in the 'shelter against the rain'.

Recall at the conclusion of Chapter Two, Levinas refers to the 'Goodness, a childish virtue'; a playful goodness comes to suspend the law and to reorient justice beyond the scales. He writes similarly in a different paper on the same topic – the Rights of Man: 'Unless a pre-eminent excellence were granted to the other out of goodness: unless good will were will, not just out of respect for the universality of a maxim of action, but out of the feeling of goodness. A simple feeling that we speak to children about, but that can have less innocent names, such as mercy or charity or love.'¹⁰⁵ On this point, an exegetical demonstration might be made here: another trial scene, this time the adulterous woman brought before Jesus of Nazareth¹⁰⁶ at the Temple.¹⁰⁷ The passage is as follows (verse numbers precede the verse):

53 Then each of them went home, 1 while Jesus went to the Mount of Olives. 2 Early in the morning he came again to the temple. All the people came to him and he sat down and began to teach them. 3 The scribes and the Pharisees brought a woman who had been caught in adultery; and making her stand before all of them, 4 they said to him, 'Teacher, this woman was caught in the very act of committing adultery. 5 Now in the law Moses commanded us to stone such women. Now what do you say?' 6 They said this to test him, so that they might have some charge to bring against him. Jesus bent down and wrote with his finger on the ground. 7 When they kept on questioning him, he straightened up and said to them, 'Let anyone among you who is without sin be the first to throw a stone at her.' 8 And once again he bent down and wrote on the ground. 9 When they heard it, they went away, one by one,

¹⁰³ Agamben, G., *State of Exception*, Chicago: University of Chicago Press, 2005, p. 64.

¹⁰⁴ Sophocles, *The Theban Plays*, London: Penguin Books, 1974, p. 136.

¹⁰⁵ Levinas, E., 'The Rights of the Other Man', in *Alterity and Transcendence*, New York: Columbia University Press, 1999, p. 149.

¹⁰⁶ Referring to 'Jesus of Nazareth' as opposed to 'Jesus Christ' recalls Arendt's preferred designation (in *The Human Condition*, amongst other texts), highlighting the thinking of the figure of Jesus *philosophically* as opposed to theologically, to de-sacralise him in a philosophical context. Within such a context, in exploring an exorbitant or gracious sense of ethics, there are a number of gestures proffered by Jesus in the gospels – giving away all one's wealth, the distribution of loaves and fishes beyond calculable reason, giving the coat off one's back, turning the other cheek, and so on – which would be relevant to explore, but which cannot be pursued here.

¹⁰⁷ The passage in question is in the Gospel of John, 7:53-8:11. This passage or 'pericope' holds an unstable place in the Gospel text; it is widely considered to not be of the same authorship as the rest of John, and some editions of the Bible used to leave it out – even now a note questioning its place is usually included in modern Bible editions; a strange moment, a deconstructive (?) unsettling which inhabits the Gospel corpus. See 'Pericope adulterae', in FL Cross (ed.), *The Oxford Dictionary of the Christian Church*, New York: Oxford University Press, 2005.

beginning with the elders; and Jesus was left alone with the woman standing before him. 10 Jesus straightened up and said to her, 'Woman, where are they? Has no one condemned you?' 11 She said, 'No one, sir.' And Jesus said, 'Neither do I condemn you. Go your way, and from now on do not sin again.'¹⁰⁸

The meaning of the gesture or act of writing on the ground is unclear – it is not explained in the text, and no final authoritative interpretation is possible.¹⁰⁹ But is not a childish goodness made manifest – a playful doodling on the ground, in defiance of the 'scribes and the Pharisees' who come in all seriousness to press for the full meaning of the law, as does Shylock? Is not their spirit of seriousness undone in an act of grace that lowers the scales without weighing? As with Shylock, the accusers can only pursue their accusation if they can bypass an exchange of wrongs – as in the penalty Shylock is made to face (giving up some of his own flesh), or the admission of a 'sin'; as they cannot, the logic of exchange and its figuring in decision and penalty is thereby undone, in their own exposure to the violence of the justice that they sought to enforce. This might be seen as a kind of reciprocity – do not demand more of others than you demand of yourself, 'do unto others' – but it is also precisely exchange that is put in the dock, and found guilty – the idea that a price must be paid for a violation of law. This scene offers a profound illustration of the meaning of a goodness, child-like or mad, an-economic and spontaneous, that comes to interrupt the law and to reorient justice.¹¹⁰ Playfulness-as-goodness disrupts exchange; Adorno, writing about children playing in *Minima Moralia*, observes:

In his purposeless activity the child, by a subterfuge, sides with use-value against exchange value. Just because he deprives the things with which he plays of their mediated usefulness, he seeks to rescue in them what is benign towards men and not what subserves the exchange relation that equally deforms men and things.¹¹¹

Whether the trial is in Venice, Athens or Jerusalem, it is possible to rescue human beings from deformation (stoning or taking a pound of flesh or surrendering them to violence or exile) by siding against the exchange relation, in the name of an-other justice, one oriented by a certain playful, gracious manifestation of goodness. It is *possible* to think this, and act upon this, in political terms.

Conclusion

The Greeks – a people for whom life was dominated by the experience of the sea, whose greatness was in part confirmed at sea (the Battle of Salamis), whose imaginary and experiential lives are bound up with the travails of life on the water. As Fagles and Stanford put it, speaking of

¹⁰⁸ *The Bible*, New Revised Standard Version.

¹⁰⁹ One possibility is that the gesture is a reference to Jeremiah 17:13: 'Those who turn away from you will be written in the dust because they have forsaken the Lord, the spring of living water.' There are numerous interpretations that can be found in the relevant literature – here the gesture is interpreted as precisely that, as physical gesture.

¹¹⁰ Not only is playful, gracious goodness on display here, but also Benjamin's dictum that the law that is studied but no longer practiced is the gate to justice: Jesus is interrupted in an act of teaching ('study'); there is a moral preachment, something to be learnt – but he defies the 'law', that is, the law of the Pharisees, which entails application of the law in accordance with a logic of economy and reciprocity and punishment, law that is law-preserving rather than life-preserving - and thus produces 'justice'.

¹¹¹ Adorno, T., *Minima Moralia: Reflections From Damaged Life*, London and New York: Verso, 2005, p. 242.

Agamemnon and Clytaemnestra, 'The sea is both the reservoir of their riches and the incarnation of their never-ending strife, a harvest and a grisly reaping both.'¹¹²

In *Antigone*, The 'Ode to Man' highlights the duality of human experience – that it is wondrous that Man sets out across the sea that is so dangerous:

Wonders are many on earth, and the greatest of these
Is man, who rides the ocean and takes his way
Through the deeps, through wind-swept valleys of perilous seas
That surge and sway.¹¹³

Man is the being that takes the chance and the risk across the water; this is proper to the human itself. The sea represents both disaster and salvation; Holderlin's lines quoted by Heidegger: 'But where danger is, grows the saving power also', is resonant in this context.¹¹⁴ The sea is danger and the saving-power, the possibility of destruction and the possibility of escape to safety elsewhere. But a second duality is also identified in the Chorus:

O wondrous subtlety of man, that draws
To good or evil ways! Great honour is given
And power to him who upholdeth his country's laws
And the justice of heaven.
But he that, too rashly daring, walks in sin
In solitary pride to his life's end.
At door of mine shall never enter in
To call me friend.¹¹⁵

Great honour is said to belong to 'him who upholdeth his country's laws' *and* 'the justice of heaven'. The tension in the play between earthly and heavenly laws, between the demands of the state and the demand of those outside the state, is brought into focus here: *both* are to be upheld. To be 'too rashly daring' would seem to breach a principle of measure and restraint, while the remark about 'solitary pride' counsels against a failure to be exposed to others.

Reading Heidegger's reading of Holderlin (in his context on the 'question concerning technology') in the context of human safety is fecund here:

Let us think carefully about these words of Holderlin. What does it mean to "save"? Usually we think that it means only to seize hold of a thing threatened by ruin in order to secure it in its former continuance. But the verb "to save" says more. "To save" is to fetch something home into its essence, in order to bring the essence for the first time into its proper appearing.¹¹⁶

¹¹² *The Oresteia*, p. 34.

¹¹³ Sophocles, *The Theban Plays*, p. 135.

¹¹⁴ Heidegger, M., 'The Question Concerning Technology', *Basic Writings*, London: Routledge, 2008, p. 232.

¹¹⁵ Sophocles, *Three Theban Plays*, p. 136.

¹¹⁶ Heidegger, M., 'The Question Concerning Technology', p. 233.

What is the 'essence' of the *human* that the chorus identifies? *To be human is to be exposed*; human nature is set out upon the sea, and that which makes us strange, yet so very ourselves, is this act of exposure. The one who sets out is exposed to danger, and their receiver on the farther shore is exposed to them – exposed to exposure, to the risk of exposure, and the need for decision and response in the face of that exposure.

Humanity as a form of exposure is a fundamental theme of Levinas's work – one is exposed to the other, 'persecuted', traumatised', held 'hostage' by them. Exposure threatens to undo the machinic, safe, calculable modes of living that would only 'walk in solitary pride'. The Rights of Man *and* the Citizen, a distinction set out millennia later in the 'Age of Reason', is already staged in the fiction of the Chorus, when read as a reflection upon the perils of sea-journeys that are proper to the human (and to many modern asylum-seekers), and the possibility of a tension between 'upholding his country's laws' and 'the justice of heaven'. Does the state do justice to 'heavenly justice', or what Levinas calls the 'Infinite' in *Totality and Infinity*:

[...] we can proceed from the experience of totality back to a situation where totality breaks up, a situation that conditions the totality itself. Such a situation is the gleam of exteriority or of transcendence in the face of the Other. The rigorously developed concept of this transcendence is expressed by the term infinity.¹¹⁷

Infinity is the exposure to the exposed one, to the infinite in the face of the other: 'The way in which the other presents himself, exceeding *the idea of the other in me*, we here name face...It is therefore to receive from the Other beyond the capacity of the I, which means exactly: to have the idea of Infinity.¹¹⁸

The transcendent, infinite or 'heavenly', in Levinas is the exposure to the other person.¹¹⁹ That *physis* intrudes in *nomos*, that the 'divine' in the figure of Athena or the plea of Portia intrudes into the political, can be interpreted in this way. For a state to practice an *ethos of responsibility* is to be exposed to the Face of the other – that is, to ride out to meet them on 'perilous seas' – the risk, the chance, the incalculable outcome, is as proper to the nature of the (just) state as it is to the suppliant who seeks the safety of its harbours. Derrida writes of Europe in *The Other Heading*: '[...] to anticipate, to go on ahead, to launch oneself onto the sea or into adventure, to take the lead in taking the initiative'.¹²⁰ Risk is built into the task of hospitality:

Calculate the risks, yes, but don't shut the door on what cannot be calculated, meaning the future and the foreigner—that's the double law of hospitality. It defines the unstable place of strategy and decision. Of perfectibility and progress. It is a place that is being sought today, in the debates about immigration for instance.¹²¹

It only *seems* to be reasonable to posit an un-thought moderation. But if reason accords with dignity in a kingdom of ends, then it is precisely unreasonable to safeguard against that which might ensure dignity – that is, the gracious aspect proffered to the vulnerable suppliant, the bearer of the affronted Face; in any case, goodness, according to Levinas, is not bound to reason. Political hospitality is an

¹¹⁷ *Totality and Infinity*, pp. 24-25.

¹¹⁸ *Totality and Infinity*, pp. 50-51.

¹¹⁹ 'Heavenly' can be seen as akin to 'infinite' in a number of places in Levinas, for eg. *Totality and Infinity* p. 40: 'We propose to call "religion" the bond that is established between the same and the other without constituting a totality.'

¹²⁰ Derrida, J., *The Other Heading: Reflections on Today's Europe*, Indianapolis: Indiana University Press, 1992, p. 49.

¹²¹ 'The Principle of Hospitality', in Derrida, J., *Paper Machine*, Stanford: Stanford University Press, 2005, p. 67.

adventure that in going out ahead to meet the human Face in its distress, would delimit the dangers and rescue life from peril. Such an *ethos* or ethics of hospitality is not only possible, but has indeed been instantiated in the past – the exemplary ‘Mare Nostrum’ program of the Italian Navy is such an instance – discussed in the Conclusion.

CONCLUSION: BEYOND THE LIMIT

The worldwide reaction to the images of the drowned child, Alan Kurdi, on the shoreline of Turkey, was overwhelming. Global calls began to resound for a more humane response to refugees. While it is difficult to quantify the direct impact the images had on political outcomes, it cannot be doubted that they changed the global conversation.

Is a better demonstration of the efficacy of Levinasian ethics for politics possible, than that of those images of the child? A face had been put on the problem. Not his actual face – it was after all a photographic image and not direct contact, and in the most famous images, the child's face was indeed not visible – but the 'Face' in the Levinasian sense, which is precisely 'not at all what is seen', but rather the exposure to the vulnerability of the other person – heightened in this case by the innocence of the child who had already lost his life.¹ The more-or-less immediate response by a global public, and thus their governments, that enabled thousands of Syrian asylum-seekers to find refuge, showed the real impact such an approach to the issue can take. That is, restoring the Face to the suffering other is a provocation to citizens and to political leaders that can have real-world consequences. This takes political decision-making beyond the calculative, beyond abstractions about numbers or justice-as-fairness in the formal sense, and compels a response to human beings as they really are. But it is not (or should not) be a matter of simply awaiting the perfect image to awaken moral sensibility: an ethical polity would be that polity which rides out to meet the vulnerable Face in its moment of distress, without waiting. The Face is the necessary moral ground of the *ethos of responsibility*, and that is why civic rights and political promise – the rights of the 'Citizen' – can and must be buttressed with an understanding and defence of the Rights of 'Man', of vulnerable human beings met in an *encounter*.²

The second major event was the decision by Germany to accept up to a million or more asylum-seekers by the end of 2015, in response to the mass movement of (mostly Syrian) refugees into Europe. What is remarkable for Germany, of course, is not remarkable for many poorer parts of the world, where developing nations are routinely required to shoulder the burden of hosting large numbers of refugees. What is different in the case of Germany is that it is a rare example of a developed nation going to such lengths. (Implicitly or overtly, this has constituted the import of the theses throughout – the ethical responsibility of wealthy democracies, the 'global north' – hence, in part, the selection of France as a thought experiment in Chapter Five.) This gesture of openness, of the suspension of limits, seems to have been the unilateral decision of Chancellor Angela Merkel (which perhaps begs a certain democratic question)³. The radical challenge to a certain logic of

¹ On the Face being 'not at all what has been seen', see Robbins, J. (ed.), *Is It Righteous To Be?: Interviews With Emmanuel Levinas*, Stanford: Stanford University Press, 2001, p. 144, also p. 208. One should also take into account the history of media images and their use and misuse, reception and influence; yet it can hardly be doubted that the images of Kurdi had great issue in the politics of asylum at that time.

² In legal theory, an argument has been made that the notion of encountering a human being – of treating the human being themselves as the bearer of a legal right, rather than as a member of a polity – could form the 'grundnorm' of international law in relation to stateless persons. See Mann, I., 'The Exodus Encounter: Towards a Foundational Theory of Human Rights', *Texas International Law Journal*, Volume 50, Issue 1, 2015, pp. 1-44. Mann makes explicit reference to Levinas several times in the articulation of how the thinking of the encounter in law is to be understood in ethical terms.

³ Slavoj Žižek makes a provocative point about the moral limits of democratic decision-making in his recent book on refugees: '[...] what happens to democracy when the majority is inclined to vote for, say, racist and sexist laws? I am not afraid to draw the conclusion that emancipatory politics should not be bound a priori by formal-democratic procedures of legitimization.' This elitism, this quasi-Platonism or vanguardism, troubling as it

numbers and calculation that this represents, of an un-thought or unarticulated claim to moderation that has typically informed Western government's responses to asylum seekers, is a bold experiment still to be worked through, but if successful (and what 'success' means in this context would need to be carefully articulated – having to do with successful integration, social cohesion, safety and so on) has the potential to effect a permanent breach in the political logic of the calculus of moderation.⁴

Third, more and more movements are emerging that are putting into question the sole ability of the state to determine questions of asylum. From the networks of Cities being established in Europe and the decision of Athens and Barcelona to bypass their states in sharing the refugee burden (sending refugees by boat across the Mediterranean from Athens to Barcelona), to the efforts in Australian hospitals and churches to resist the program of offshore detention pursued by the Federal Government – a new politics is being articulated, in different ways and in different places, but with a common thread – the calling into question of state sovereignty as it is currently understood and practiced, as that which sets the limit to the possibilities of refuge.

A central question of this thesis has been to probe what the actual limits of asylum are. When Derrida says 'let us say yes to who or what turns up' – seemingly beyond the bounds of the reasonable – is not Germany's gesture at least in part an instantiation of that? What is, in fact, the practical issue with throwing open the doors of a nation to a large group of applicant-suplicants? Where does the limit lie? The German example is in its early stages of being played out. It would be a bit much to compare Angela Merkel to a modern-day Athena, but the comparison is not entirely without merit – a decision which *allows*, that gives refuge, that does not look to calculation first of all, but to humanitarian principle; a state that is seeking to be responsible for the plight of others, perhaps with the legacy of its past in mind. And even though it is suggested that Germany in fact needs great numbers of people, in order to shore up its declining population – and that thus there is still a component of self-interest operative in its decision (and an inescapability to the circular logic of economy, as Derrida observed) - nevertheless the scale of the attempt of welcome is impressive, and should give pause for thought. Derrida in *The Other Heading* writes: 'it is necessary to make ourselves the guardians of an idea of Europe, of a difference of Europe, *but* of a Europe that consists precisely in not closing itself off in its own identity and in advancing itself in an exemplary way towards what it is not'.⁵ This exemplariness can be seen in Merkel's gesture, an exorbitant responsibility for others that has at least one eye on German historical guilt – the very Derridian-Levinasian ethical exigency in many ways – that stretches the limits of the possible: 'The condition of possibility of this thing called responsibility is a certain *experience and experiment of the possibility of the impossible*'.⁶

In Australia, the government operation to receive asylum-seekers on the high seas is the militarised 'Operation Sovereign Borders', which ferries those it rescues into a punitive offshore

seems, is instantiated in Merkel's gesture – which nevertheless represented safety for a million people. Zizek, S., *Against the Double Blackmail: Refugees, Terror and Other Troubles with the Neighbours*, London: Allen Lane, 2015, p. 11. This problem of the need for a democratic legitimation of the granting of refuge is already staged in Aeschylus' play *The Suppliants*, where King Pelasgus is reluctant to simply proffer asylum without consulting the people.

⁴ A similar policy has since been pursued by Canada. However in both countries, there is an appeal to the economic benefit of welcoming large numbers of migrants – neither can be seen as simply altruistic acts, but rather as a combination of a welcoming hospitality, and a pragmatic economic decision. This recalls the discussion in Chapter Five of the 'Metic', the stranger welcomed and given certain rights, in connection with their economic status; but the 'Metic' or its modern iterations, need not be limited by the economic.

⁵ Derrida, J., *The Other Heading: Reflections on Today's Europe*, Indianapolis: Indiana University Press, 1992, p. 29.

⁶ *The Other Heading*, p. 41.

detention regime. Sovereignty in this Australian context means self-preservation and control, the establishment of orderly borders and the delimitation of the ability of outsiders to cross them. But what is sovereignty? Levinas inverts subjectivity into concern for the other – this thought, translated into political terms, means sovereignty reconfigured as a modality of responsibility (as discussed in Chapter Two, Levinas suggests that is how the state might be judged).

German generosity notwithstanding, other European nations have been on the front-line of the reception of refugees, and exemplary amongst those has been Italy. (A certain irony obtains in these two formerly fascist states of Europe having among the most morally laudable responses to refugees). Perhaps there is no better example of the *ethos of responsibility* posited throughout the present work, of a more expansive, solicitous hospitality, than ‘Mare Nostrum’ – the Italian Navy’s now-defunct program to rescue refugees from the Mediterranean (it has now been replaced by a less expansive EU program). ‘Mare Nostrum’ translates to ‘Our Sea’, invoking a sense of proprietorship; and indeed, this phrase has been used at other times in Italian history for less humanitarian ends. But in its modern configuration, the sense of ownership and sovereignty, is bound up with justice. *Sovereignty would be coterminous with responsibility*. Sovereignty would not simply be the protection of the border, the policing of a limit; it would be the literal ferrying of the suppliant over that limit and into safety, the harvesting of life from the ‘unharvestable sea’.⁷ The risk of those who adventure over the seas, as described in the ‘Ode to Man’ as fundamental to the human experience, is met by the risk of the states who ride out to meet them and ensure their safety – a stepping into an uncertain situation, an allowing of the chance of the event-as-encounter, in the name of human dignity.⁸ It is this risk-taking which marks the greatness, that is to say, the laudable just nature of the state, giving an ethical signification to Arendt’s remarks on Pericles’s oration, inverting Athenian imperialism into its opposite, into responsibility: ‘those who forced every sea and land to become the scene of their daring will not remain without witness.’⁹ In Levinasian terms, it is the active response to the suffering other, the encounter with the Face and the vulnerability of the other person, and the non-turning away of the state actor who not only recognises, but accepts responsibility. Such a politics is always *possible*, but requires a reconsideration of the meaning of sovereignty in its essence, its quiddity or nature, what it really is about: from self-preservation to responsibility, beyond the Schmittian distinction of friend-enemy and reemerging as a more affirmatively hospitable mode of relationality. In an extraordinary speech from the incomplete play *Thomas More*, Shakespeare (in revisions of this play attributed to him) recalls the listener to such an understanding of responsibility, savagely criticising those who ‘sit as kings in their desires’ in denying refuge to the foreigner, an avoidance of responsibility and an inhumanity which ‘Hath chid down all the majesty of England’, its greatness as a just state:

⁷A translation of a phrase from *The Odyssey*. For an excellent discussion of this phrase, see Nicolson, A., *The Mighty Dead: Why Homer Matters*, London: William Collins, 2014, pp. 12-14. Nicolson describes the unharvestable sea as the ‘realm of death’ which Odysseus escapes. Yet the ‘unharvestable sea’ – in Greek, *pontos atrygetos* – might also be understood as a realm of promise and *possibility*, of that which is yet to be harvested. I owe this insight to the reflections at this website: <https://dimitriscc.wordpress.com/2016/01/12/homer-and-the-unharvestable-sea/>, retrieved 4/9/2016.

⁸The remodelling of asylum policy along the lines of human dignity is being expressly articulated by one political party in Australia in 2016, indeed calling for ‘dignity packages’ to assist asylum-seekers. See <http://www.smh.com.au/federal-politics/political-news/greens-back-rise-in-refugee-intake-to-50000-new-skilled-visa-20160415-go7l3f.html>, retrieved 27/4/16.

⁹Arendt, H., *The Human Condition*, Chicago: University of Chicago Press, 1998, p. 197.

*Grant them removed, and grant that this your noise
 Hath chid down all the majesty of England;
 Imagine that you see the wretched strangers,
 Their babies at their backs and their poor luggage,
 Plodding to the ports and coasts for transportation,
 And that you sit as kings in your desires,
 Authority quite silent by your brawl,
 And you in ruff of your opinions clothed;
 What had you got? I'll tell you: you had taught
 How insolence and strong hand should prevail,
 How order should be quelled; and by this pattern
 Not one of you should live an aged man,
 For other ruffians, as their fancies wrought,
 With self same hand, self reasons, and self right,
 Would shark on you, and men like ravenous fishes
 Would feed on one another....
 Say now the king
 Should so much come too short of your great trespass
 As but to banish you, whether would you go?
 What country, by the nature of your error,
 Should give you harbour? go you to France or Flanders,
 To any German province, to Spain or Portugal,
 Nay, any where that not adheres to England,
 Why, you must needs be strangers: would you be pleased
 To find a nation of such barbarous temper,
 That, breaking out in hideous violence,
 Would not afford you an abode on earth,
 Whet their detested knives against your throats,
 Spurn you like dogs, and like as if that God
 Owed not nor made not you, nor that the claimants
 Were not all appropriate to your comforts,
 But chartered unto them, what would you think
 To be thus used? this is the strangers case;
 And this your mountainish inhumanity.¹⁰*

In *The Dialectic of Enlightenment*, Horkheimer and Adorno reflect upon the dominance of numbers and calculation in philosophy from the time of the Ancient Greeks through to modernity: 'The mythologizing equation of Forms with numbers in Plato's last writings expresses the longing of all demythologizing: number became enlightenment's canon. The same equations govern bourgeois justice and commodity exchange.'¹¹ They quote Francis Bacon on the relationship of number to justice: "[...] is there not a true coincidence between commutative and distributive justice, and arithmetical and geometrical proportion?"¹² That is to say, that 'bourgeois justice' is bound up with

¹⁰ From the text of the play preserved at the British Library – see: <https://www.bl.uk/collection-items/shakespeares-handwriting-in-the-book-of-sir-thomas-more>, retrieved 15/2/2017.

¹¹ Adorno, T., and Horkheimer, M. (ed. Noerr, G.S., Trans. Jephcott, E.) *Dialectic of Enlightenment: Philosophical Fragments*, Stanford: Stanford University Press, 2002, p. 4.

¹² *Dialectic of Enlightenment*, p. 4.

the mathematically calculable: 'Bourgeois society is ruled by equivalence. It makes dissimilar things comparable by reducing them to abstract quantities. For the Enlightenment, anything which cannot be resolved into numbers, and ultimately into one, is illusion; modern positivism consigns it to poetry.'¹³ What they identify is a certain pathology of the economic that dominates modernity¹⁴, which Adorno in *Minima Moralia* will even link to the politics of asylum via an excoriation of bourgeois life: 'The caring hand that even now tends the little garden as if it had not long since become a "lot", but fearfully wards off the unknown intruder, is already that which denies the political refugee asylum.'¹⁵ A pathology of numbers, of prudence and fearfulness that has attained the status of unreflective self-justification, rules the political: 'Now equivalence itself becomes a fetish. The blindfold over the eyes of Justitia means not only that justice brooks no interference but that it does not originate in freedom.'¹⁶ This is the essential problem this thesis has wrestled with: how to put into question this pathology, in the face of the flight of millions across borders, all the twenty-first century voyages of the damned? Often what seems to stand in the way of shelter for those millions is a question of numbers, of limits, of measure. How to negotiate the limits? How to assert an ethics that makes reference to infinite demands or to a thinking of ethical transcendence, when 'Unity remains the watchword from Parmenides to Russell. All gods and qualities must be destroyed.'¹⁷ In Aeschylus the moment of goddess Athena's casting vote on the side of allowing and letting in, is the originating moment of a civil society – an instantiation of the 'Rights of Man' as the founding *ethos* of the polis. Affirmation towards the other grounds the polis as the place and space of justice, of an impartial judgement that, in the face of impass and aporia, of uncertainty as to the correct decision, will err on the side of gracious-mercy and of life – a grace that is prior to justice but which founds and informs it, beyond the scales of calculation.

What Levinas and Derrida challenge political thinkers and actors to do is to imagine what it might be like to interrupt, suspend, or go beyond purported limits. It is surely true that at some point, there are limits. But what are they, and who can say what they are? Immanuel Kant, whose critique of measure was discussed in Chapter One, observed that 'equity is a mute divinity that cannot be heard'; the measure of measure itself is contestable and unknowable.¹⁸ Thus it is necessary that a good will govern moderation, which is 'far from being rightly called good without qualification (however unconditionally they were commended by the ancients)... it is good only through its willing'.¹⁹ Thus for Kant, between the unconditioned and the conditioned, there is a negotiation that

¹³ *Dialectic of Enlightenment*, pp. 4-5. See also p. 3: 'For enlightenment, anything which does not conform to the standard of calculability and utility must be viewed with suspicion.' See similar remarks in *Can One Live After Auschwitz?*, p. 479: 'Bourgeois society is universally situated under the law of exchange, of the like-for-like of accounts that match and that leave no remainder.'

¹⁴ A pathology perhaps exemplified in the extraordinary use of the phrase 'human dividend' by an Australian Prime Minister in reference to asylum-seekers – the argument being that 'stopping the boats' has freed up resources to be able to help people. The language of dividends, of profits and losses, so nakedly expressed in the context of humanitarian politics, is striking, and the specificity of refugee places, for a long time 13,750 exactly (Why this figure? What justifies this precise number of places?), would seem to point to an accounting sensibility, a petty shopkeeperishness of the soul. See <http://www.smh.com.au/federal-politics/political-news/citizenship-for-cash-is-not-our-policy-tony-abbott-20150504-1mz95e.html> retrieved 28/9/2015.

¹⁵ Adorno, T., *Minima Moralia: Reflections from Damaged Life*, London and New York: Verso, 2005, p.

¹⁶ *Dialectic of Enlightenment*, p. 12.

¹⁷ *Dialectic of Enlightenment*, p. 5.

¹⁸ Kant, I., *Metaphysics of Morals*, Cambridge: Cambridge University Press, 2003, p. 27.

¹⁹ Kant, I., *Grounding for the Metaphysics of Morals*, Indianapolis: Hackett Publishing Company, 1993, p. 7. Note the implicit criticism of Aristotle here, surely the 'ancient' he is referring to.

should be overseen by a good will. Moderation would sometimes seem to be a self-evident good. But what is moderation, really? Does it have a limit? Can it be reinterpreted?

Borrowing the future anterior tense of which Derrida was so fond: *will everything have always been about the war?* In 2016, two meetings in New York organised by President Obama – one a UN conference, and the other his own summit - failed to agree on meaningful action for the population of concern of sixty-five million in present need; indeed, a modest proposal for the developed world to settle 10% of that population was removed from the conference document prior to commencement²⁰, and this at the time of egregious crimes against humanity being committed in Aleppo in Syria, underscoring the danger and urgency. This failure of generosity and moral imagination recalls the failure of the 1938 Evian conference to agree on refuge for the Jewish people who were expelled by or under direct threat from the Nazis. Hegel held that the wings of Minerva spread only with the falling of dusk; that history can only be understood in retrospect. But if it were possible to respond to history differently, in knowledge and horror of the calamity of the Shoah, would one not go back to the plight of Jews in war-time Europe, and agree to take them all in, to give refuge all around the world, without limit?²¹ Which is to say, that at certain critical moments, should not the watch-word of justice cease to be moderation, and become excessive, in the name of human dignity, the uniqueness of each vulnerable human being calling out for asylum? And were the total numbers not slight in global terms? And is this not true of every refugee crisis to date – could not every Syrian refugee at the present moment be accommodated?²² That is, if one is still keeping to the limits of a measure - and even if one did not, should not a moment of madness-as-goodness enter into the political, at critical moments – that refuge, as a principle guaranteeing human dignity and life, trump practicality itself? And that this is *not* political naiveté, and that *it is as incumbent on any political actor to justify the conservatism of their 'moderation'* as it is for those who advocate more exorbitant demands – maybe more, because the lack of a guarantee of human dignity that such a restricted compartment risks is potentially morally disgraceful – the avoidance of which should surely be the true *measure* of the political.

Levinas often referred to the Soviet writer Vasily Grossman, who in his magnum opus *Life and Fate* (set in the USSR during the war, at the time of the Battle of Stalingrad) suggests as an example of small-g goodness (as distinct from big-G God or the Good), the Russian woman who gives her last piece of bread to a man who is officially her enemy, a German soldier invading her country. A goodness that bursts the dams of the reasonable, gratuitous and perhaps mad – that which is beyond the calculative.²³ Another possibility that is set forth by Levinasian-Derridian thought is that a madness of generosity should, perhaps, keep watch over the political, especially given that an ultimate determination of the limits of welcome is all but impossible:

Each time a responsibility (ethical or political) has to be taken, one must pass by way of antinomic injunctions, which have an aporetic form, by way of a sort of experience of the impossible; otherwise the application of a rule by a conscious subject identical to itself, objectively subsuming a case to the generality of a given law, manages on

²⁰ <https://www.theguardian.com/world/2016/aug/03/un-members-reject-concrete-refugee-resettlement-target>, retrieved 1/10/2016.

²¹ As Sweden acted, for example, volunteering to take in all Danish Jews. See Levine, P. *From Indifference to Activism – Swedish Diplomacy and the Holocaust: 1938–1944*, Uppsala 1996.

²² For a powerful comparison of the Jewish and Syrian calamities, see the column by Nicholas Kristof in the New York Times, 'Anne Frank Today is a Syrian Girl'. <http://www.nytimes.com/2016/08/25/opinion/anne-frank-today-is-a-syrian-girl.html>, retrieved 26/8/2016.

²³ *Is It Righteous To Be?*, p. 89.

the contrary to *irresponsibilize*, or at least to miss the always unheard-of singularity of the decision that has to be made.²⁴

It is possible that in politics, one should guard the possibility of the impossible, that ‘a certain “madness”²⁵ should watch over thinking and action. In the reading of Athena’s gesture presented in Chapter Six, this madness – justified by no calculable impetus – founds the just state. This is the moment of the ‘caesura of allowing’ – a mad hospitality²⁶, divine or loving violence, a grace-note that comes to interrupt the schemas of calculation.

What is the import of Levinas’s philosophy? It was written in the ‘presentiment’, the experience and the aftermath, of the war and of Nazism.²⁷ It is living and thinking in a state of ‘insomnia’ – a vital concept for Levinas – that is, a kind of moral wakefulness, a guarding against the reappearance of the worst, or the indifferent response to the vulnerable.²⁸ It is no exaggeration to say that Nazism hangs over every word in the Levinasian corpus, and thus a certain iteration of the political, one might say the most nightmarish vision of the political ever conceived. His ethical philosophy is fundamentally a response to a *politics*; its import is, at least in part, *political*. This moment in history which has been described as humanity’s ‘zero hour’, which was perhaps par excellence the moment when the ‘Face’ of the other was most thoroughly and systematically violated or destroyed. The Nazis were in part able to kill on such an order of magnitude because they sought to avoid the Face, stripped people naked and de-faced them, made of humanity in the camps an amorphous mass of living dead, reduced to disposable statistics that were nevertheless carefully totted up in registers and counting machines.²⁹ Arendt discusses the ‘economic’ side of the extermination in *Eichmann in Jerusalem*: ‘This “objective” attitude – talking about concentration camps in terms of “administration” and about extermination camps in terms of “economy” – was

²⁴ Weber, E., (ed.), “A ‘Madness’ Must Watch Over Thinking”, Derrida interview in *Points... Interviews, 1974-1994*, Stanford: Stanford University Press, 1995, p. 359.

²⁵ “A ‘Madness’ Must Watch Over Thinking”, p. 363.

²⁶ ‘The essence of madness must be related to the essence of hospitality, in the area of this uncontrollable outburst towards the one who is closest.’ *Of Hospitality*, p. 92.

²⁷ ‘Signature’, in Levinas, E., *Difficult Freedom: Reflections on Judaism*, Baltimore: John Hopkins University Press, 1990, p. 291.

²⁸ Adorno, mentioned above, pursued a similar trajectory – the task of philosophy post-Auschwitz was to account for, and to respond to, this horror, events which had called into question the ‘Western legacy of positivity’ – ‘Luridly the horror of the ending lights up the deception of the origin...This is not the time for the First Philosophy, but for a Last One’. (*Can One Live...p. xxvii*). Philosophy, to the extent it did not guard against the horror, stands in the dock, or in need of transformation. For an excellent discussion of these themes, see the Introduction to *Can One Live After Auschwitz?*, as well as similar remarks in *Minima Moralia*.

²⁹ Derrida will even have recourse to describing Nazism as the ‘order of representation’, which might be thought along the lines of the Levinasian suspicion of reason – of representing the other to oneself via cognition-as-signification, and then forming an ethical response – and his positing of a pre-rational moment of interruption where the other interrupts thought, representation and self-composure in a moment of exposure, ‘trauma’, and so on. See the discussion in Chapter Two exploring Levinasian ethics, as distinct from Kantian ethics. For Derrida see Derrida, J., *Acts of Religion*, New York: Routledge, 2002, p. 296: ‘Because what Nazism, as the final achievement of the logic of mythological violence, would have attempted to do is to exclude the other witness, to destroy the witness of the other order, of a divine violence whose justice is irreducible to law, of a violence heterogeneous to the order both of law and right (be it that of human rights) or of the order of representation and of myth.’ Mythic violence that is law-preserving, which maintains the order of representation, is that which seeks to do away with a justice that interrupts these boundaries. Levinas links ethical transcendence to the Jewish prohibition against representation of images – see Levinas, E., ‘The Prohibition against Representation and ‘The Rights of Man’’, in *Alterity and Transcendence*, New York: Columbia University Press, 1999, pp. 121-130.

typical of the S.S. mentality, and something Eichmann, at the trial, was still very proud of.³⁰ In a late interview, Levinas is asked about totality as it relates to a thinking of numbers, as an adding-up process:

Q: In this way we could come back again to the theme of “totality”. When you earlier characterised thinking as an adding-up... that’s how Jews were handled during the Third Reich, as numbers.

E.L.: The final expression of an “adding-up”. Adding up is a concrete figure in pure economic life, in purely economic conditions.³¹

This logic of adding-up adheres in the economic logic of states, which is to say, the dominant logic of states:

This adding up of the sum total is the economic life, absolutely: precisely there, the face plays no role, human beings are terms, they come into an ensemble, adding themselves up. The adding up of totality is, concretely, economic life and the State; economic life is concrete in the State [...].³²

Politics as an adding-up, on this account, runs a very great risk of inhumanity.³³ What was true in the concentration camp³⁴ – the reduction of human beings to a number - is also true in a similar, if mostly much less severe way, in modern detention camps for asylum-seekers.³⁵ For Levinas, to avoid inhumanity it is necessary to get beyond the logic of calculation in considering the plight of others:

Humanity precisely as *grace*, in the passage from the one to the other: transcendence. Passage from the one to the other, without concern for reciprocity, pure gratuity, from the unique to the unique. That is also reason, or peace, or

³⁰ Arendt, H., *Eichmann in Jerusalem: A Report on the Banality of Evil*, London: Penguin Books, 2006, pp. 68-69.

³¹ *Is It Righteous To Be?*, p. 150.

³² *Is It Righteous To Be?*, p. 142.

³³ On the moral calamity of ‘adding up’ humans during the Third Reich, see Black, E., *IBM and the Holocaust*, London: Time Warner Paperbacks, 2001, especially Chapter One, ‘Numbered People’. See also Roseman, M., *The Villa, The Lake, The Meeting: Wannsee and the Final Solution*, London and New York: The Penguin Press, 2002. P. 1: The ‘Wannsee Protocol...counts up all the Jews remaining in Axis, occupied, neutral and enemy Europe, and outlines a plan to ‘evacuate’ those Jews to the east.’ [emphasis added] See also p. 111 for the table in the infamous Protocol which lists the numerical Jewish population of each state in Europe. One should perhaps exercise the gravest suspicion concerning the treatment of persons as numbers, which underlines the alliance of Derrida/Levinas with Kant, and against utilitarianism and even forms of liberalism that engage the calculative as the meaning of justice.

³⁴ This progression of logic by Levinas echoes remarks by Jean Amèry in *At The Mind’s Limits: Contemplations by a Survivor on Auschwitz and its Realities*, Bloomington: Indiana University Press, 1980: ‘For him [the unintellectual prisoner], the camp logic was merely the step-by-step intensification of economic logic’ (p. 11), and the Final Solution was a ‘mathematically determined solution’ p. 16).

³⁵ ‘In the incident reports and throughout Australia’s immigration department, asylum seekers are often referred to by their “boat ID” – a six-digit combination of letters and numbers tied to the asylum seeker vessel they arrived on. But when a baby is born to parents in detention on Nauru, they receive not a six-digit ID, but a seven-digit one. It is a numerical system that is expanding. How many more digits will be added?’ from <https://www.theguardian.com/news/2016/aug/10/i-want-death-nauru-files-chronicle-despair-of-asylum-seeker-children>, retrieved 10/8/16. The prevalence of this type of logic gives a great deal of credence to Agamben’s argument about the camp representing the new nomos of politics in modernity, even though it is essential to not exaggerate the similarities (as Agamben is perhaps guilty of doing); a death camp is not the same as a camp of detention.

goodness. *Reason as generosity above reason as calculation.* This human generosity is certainly not a statistical given.³⁶ [emphasis added]

Now in a new age, similar numbers of stateless persons to that at the time of the 'midnight of the twentieth century' – which gave rise to Arendt's concerns that framed the considerations of this thesis, not to mention to a great extent her life and the lives and works of Levinas and Derrida – have again been made manifest by war and poverty, demanding a response that might ensure their human dignity.³⁷ What Levinas suggests – possibly his most important contribution to thinking the political – is that in responding to them, the other person should be considered in their uniqueness and vulnerability, not (only) as one more statistic or the element of a calculus. 'And all I have done is to find a relation that is not an adding up.'³⁸

In Kafka's great novel *The Trial*, the protagonist Josef K. experiences life as a supplicant or outsider, a stranger before the court and the law (resonant with Socrates' self-presentation in the *Apology* as a foreigner or stranger – the French word *l'étranger* carries both meanings – to the court and its ways).³⁹ At the conclusion of the novel, moments before the execution of Josef K., a strange interruption to the course of events occurs:

His eyes fell on the top storey of the house at the edge of the quarry. The casement window flew open like a light flashing on; a human figure, faint and insubstantial at that distance and height, forced itself far out and stretched its arms out even further. Who was it? A friend? A good man? One who sympathised? One who wanted to help? Was it one person? Was it everybody? Was there still help? Were there objections which had been forgotten? Logic is of course unshakeable, but it cannot hold out against a man who wants to live. Where was the judge he had never seen? Where was the high court he had never reached?⁴⁰

The identity and purpose of the figure in the house above the scene of death is unknown, but would seem to hold out the prospect of a strange, distant and indeterminate (and thus weakly messianic) hope. Are they there to help, do they sympathise? In the face of the 'man who wants to live', for whom the bounds of 'logic' are not a limit – however 'unshakeable' – what will their response be? In Kafka's dizzying novel the court is everywhere and nowhere: does the faint figure in fact represent the court, but an-other court to that represented by the executioners, a court of kindness

³⁶ *Is It Righteous To Be?*, p. 111. It should be noted that the need to think the intersubjective relation beyond reciprocity was the basis of Levinas critique of Martin Buber, whose 'I-Thou' relation was to Levinas insufficient in dealing with the infinite demand that the other places on me; for Levinas the responsibility of the other for me is not my concern.

³⁷ Pope Francis made similar remarks on a visit to the island of Lesbos in early 2016: 'before they are numbers, these people are first and foremost human beings...Refugees are not numbers, they are people who have faces, names, stories, and need to be treated as such.' See <http://www.bustle.com/articles/155132-pope-francis-visited-greece-and-took-12-syrian-refugees-back-with-him-to-the-vatican>, retrieved 27/4/16.

³⁸ *Is It Righteous To Be?*, p. 142.

³⁹ See *The Apology of Socrates*, in Plato, *The Last Days of Socrates*, London: Penguin Books, 1976, pp. 45-46. Derrida comments on Socrates' claim in the first section of *Of Hospitality*, 'Foreigner Question', p. 17: '[...] a defendant required to justify himself, in the language of the other, before the law and the judges of the city...he asks them to treat him like a foreigner for whom marks of respect can be demanded'. This might recall the discussion of the 'Metic' in Chapter Five, who was entitled to appeal to certain treaties of asylum.

⁴⁰ Kafka, F., *The Trial*, London: Penguin Books, 2000, p. 178.

and grace and release, the one Josef K. has never reached?⁴¹ Is this meaning hinted at by Kafka's naming of Josef K.'s advocate, as *Huld*, German for 'grace'?⁴² Or, if the book describes a self-accusation, then is Josef K reproaching himself for the solicitous person that he himself has failed to be?

In Robert Calasso's fascinating study of Kafka, simply titled *K.*, there is an interesting discussion of the theme of 'election' in Kafka's two great novels, *The Trial* and *The Castle*:

[They are] stories about attempts *to deal with a case*: to extricate oneself from prosecution, to have one's nomination confirmed. The point around which everything revolves is always *election*, the mystery of election, its impenetrable obscurity...To be chosen, to be condemned: two possible outcomes of the same process.⁴³

Election on this reading is the hoped-for outcome for the suppliant in each 'case'. But election, in a different sense, applies also to the party granting election. For Levinas, election is a 'chosenness' in the Jewish tradition that is coterminous not with privilege, but with responsibility: 'The prophet who demands justice is chosen not by others; he is chosen because he was the first to hear the call.'⁴⁴ Election-as-responsibility, is the choice to respond to a call, elected to grant election, the resolution of a 'case' – for the one whose case it is to be chosen, that is, admitted, or condemned, kept in exile or sent back. This notion of election can resemble an elitism – grace as the donation from a superior to an inferior.⁴⁵ It also risks delimiting the recognition of the courage and agency of asylum-seekers. But nevertheless, those who find themselves stateless are often eminently vulnerable – imminently vulnerable as well, on leaky boats or immiserated in camps of uncertain conditions. There are indeed cases to be decided – one thinks of the actual cases brought before the Federal courts in Australia to determine the fate of refugees.⁴⁶ In an essay on Kafka, Arendt observes that while some may think of Kafka as depicting forecasts 'of a world to come', in fact '...this world actually has come to pass. The generation of the forties and especially those who have the doubtful advantage of having lived under the most terrible regime history has so far produced know that the terror of Kafka adequately represents the true nature of the thing called bureaucracy'.⁴⁷ And the decision of a president, on Holocaust Remembrance Day, to ban migrants and refugees on the basis of nationality and (probably)

⁴¹ One should be cautious about attempting to derive a sense of redemption from Kafka – something that Arendt was misled into on occasion. See Caygill, H., 'The Fate of the Pariah: Arendt and Kafka's "Nature Theatre of Oklahama"', *College Literature*, Vol. 38, No. 1, Winter 2011, pp. 1-15.

⁴² Bridgewater, P., *Kafka's Novels: An Interpretation*, Amsterdam and New York: Editions Rodopi, 2003, p. 148. Bridgewater is strangely resistant to interpreting this character by his name: "[...] there is no reason to think that grace is a valid concept in the context of the novel' (p. 148). If grace can signify release from persecution, then given the plight of Josef K and his efforts to secure his release from the Trial, the process (*Der Prozess*) that ensnares him – whatever it is - this seems too strong a claim. And the resonances with the plight of asylum-seekers – being trapped before the law, trapped in an often indefinite process, seeking release, and so on, are manifest. That aside, the character of Huld is also somewhat ambivalent – certainly, he is not an example of the efficacy of grace as release for the persecuted - and final determinations concerning Kafka's intentions in his writings are wisely avoided.

⁴³ Calasso, R., *K.*, New York: Vintage International, 2006, pp. 4-5.

⁴⁴ *Is It Righteous To Be?*, p. 163. Judith Butler expresses some reservations about the potential blind-spots in Levinas's understanding of 'election', in regard to a certain privileging of Israel and a suspicion towards 'exotic cultures' - See Butler, J., *Giving an Account of Oneself*, New York: Fordham University Press, 2005, pp. 93-94.

⁴⁵ I owe this phrase to Michael Janover.

⁴⁶ For example: <https://www.theguardian.com/australia-news/2016/dec/16/immigration-authorities-unreasonably-delayed-refugees-citizenship-bids-court-rules>. Retrieved 3/1/2017.

⁴⁷ Arendt, H., 'Franz Kafka: A Reevaluation', in *Essays in Understanding 1930-1954*, New York: Schocken Books, 2005, pp. 73-74.

religion⁴⁸, recalls the exiles of yesterday and makes of this experience of trial a living present, a 'court in standing session'⁴⁹, recalling Benjamin's eighth thesis on the philosophy of history: 'The tradition of the oppressed teaches us that the "state of emergency" in which we live is not the exception but the rule.'⁵⁰

It is often advanced that Kafka's writings proffer haunting premonitions or presentiments of the trials and calamities awaiting European Jewry.⁵¹ The image of the potentially salvific figure overlooking the quarry at the point of execution might recall the help that could have come, but never did, for so many. Grace, allowing, are possibilities in the world, but unrealized – the ministrations of the advocate Huld are largely feckless, and the witness to the execution does not intervene; hope has been given, but not to us, as Kafka observed. Grace, that is, suspension of calculation, is lacking; purported moderation as it pertains to *numbers* remains a barrier to the safeguarding of human dignity, as the debate in the United Kingdom over the Dubs Amendment seems to indicate: an initial promise to take in three thousand refugee children (why this number?) was reduced to a paltry three hundred and fifty places (why this number?).⁵² The defence of this reduction was that the Dubs Amendment acts as a pull-factor for children to undertake dangerous journeys with people-smugglers, yet this argument – at minimum contestable – has become a standard reaction by governments who wish to restrict the numbers of people arriving. The problem of numbers remains decisive in the context of life-saving asylum. The Kindertransport, often lauded as a moral high-point in British history, saved ten thousand children who went West on trains, finding shelter in Great Britain; yet other trains went East, and 1.5 million children would ultimately perish in the Shoah. A mad, open-ended welcome might have saved many more.

What role does grace have to play in such cases? In Chapter Six Levinas was quoted to the effect that it is at the court that love of the neighbour, and the manifestation of grace, would be possible. The state, which in *The Eumenides* is manifested as a kind of court or tribunal, might be seen in the position of that house overlooking the plight of the vulnerable from above. What is the proper

⁴⁸<https://www.theguardian.com/commentisfree/2017/jan/28/donald-trump-ban-refugees-holocaust-remembrance-day>, retrieved 30/1/17. The 'probably' above relates to Trump's denial that the ban is religiously motivated, yet the correlation between the states banned – all Muslim majority countries – and Trump's campaign promise of a ban on Muslim migration, is telling.

⁴⁹ For this phrase, see the Introduction to Kafka, F., *The Castle*, London: Penguin Books, 2000, p xvii. The phrase is drawn from *The Blue Octavo Notebooks*, which in a different translation renders the same passage as 'It is in fact, a kind of martial law' – also resonant in this context. Kafka, F., (ed. Brod, M., Trans. Kaiser, E. and Wilkins, E.) *The Blue Octavo Notebooks*, Cambridge: Exact Change, 1991, p. 27.

⁵⁰ Benjamin, W., 'Theses on the Philosophy of History', in Arendt, H. (ed.) *Illuminations: Essays and Reflections*, New York: Schocken Books, 1968, p. 257.

⁵¹ See the excellent discussion (and useful summary) on this point in Samolky, R., 'Metaleptic Machines: Kafka, Kabbalah, Shoah', in *Modern Judaism*, Vol. 19, No. 2 (May, 1999), Oxford: Oxford University Press, pp. 173-194. See also George Steiner's introduction to the Schocken books edition of *The Trial*; additionally, Derrida comments on the 'premonitory genius' of Kafka in relation to the Holocaust in the third session of his seminars on the Death Penalty – Derrida, J. (trans. Rottenberg, E. eds. Bennington, G. and Crépon, M.), *The Death Penalty: Volume Two*, Chicago: University of Chicago Press, 2017, p. 65.

⁵² See <http://www.bbc.co.uk/news/uk-38988321>, retrieved 16/2/17. Although there are important differences, nevertheless the resonances between the 1930s-40s and the present in the context of refugees is striking, as is the way in which those lessons are or are not learned – Alfred Dubs was saved in the *Kindertransport* of Jewish children to Great Britain – making the restrictive policy attitude of the present government all the more puzzling in light of historical lessons that might have been learned. Indeed, at the time of the *Kindertransport*, 'No limit to the *number* of children was every publicly announced' [emphasis added], though a figure of around ten thousand children was adopted informally. See Harris, M.J., and Oppenheimer, D., *Into the Arms of Strangers: Stories of the Kindertransport*, London: Bloomsbury Publishing, 2001, p. 10.

response of a state to a vulnerable suppliant? Of what should sovereignty consist, and what should its guiding *ethos* be, in terms of hospitality? Within the limits of the Westphalian system of state sovereignty, there will always be a process to determine the response in each case; a *negotiation* (a key word, one might even risk calling it a leitmotif, for Derrida on ethical matters), each time within a specific and unique context, that requires the exercise of judgement, where the ultimate decision to be taken cannot always be measured in hard facts (for example, to know for sure that an asylum-seeker is in genuine need of refuge or not, whether they will burden or expand the state's coffers, the precise limit of numbers, and so on).⁵³ This inevitability of judgment and decision is what requires the putting into question of the sense of measure that will guide them. Some challenges to state sovereignty have been explored in Chapters Four and Five, but the behaviour of sovereign states need not be implicitly selfish or mean-spirited, nor are state borders necessarily bad – crossing the borders of a state can represent the achievement of safety, of refuge from persecution. But the ordinary self-preservation of the state is ranged here against the just state; Walter Benjamin argued that 'It is false and ignoble to say that existence is superior to just existence, if existence is simply meant to mean bare life' – a state that leaves bare life to its fate is not a just state, and a state that is not just is a lesser thing.⁵⁴ Justice, in the absence of the possibility of a precise weighing of interests, where it is a question of human dignity at stake, needs to be preceded by grace – a caesura of allowing that orients justice in a spirit of affirmation. Should not the state give voice to the Levinasian '*me voici*' – 'here I am', the answer given in response to the call of the suffering other? It is *possible* that a grace-note should ring out across the quarry, a suspension of mythic, law-preserving violence in the name of an affirmation of human life, Athena manifest beyond a warlike countenance in the gracious aspect shown to the vulnerable suppliant, *as when a Navy, the gunboats of law, becomes a fleet of rescue vessels*. Is this so impossible? But there are already examples of this.

This thesis has posited and explored an *ethos of responsibility* in relation to the politics of asylum. It has articulated an ethics in response to Arendt's call for a new guarantee of human dignity, and has done so by drawing upon the work of Levinas and Derrida. *Pace* Arendt, it has defended the 'Rights of Man', understood via Levinasian phenomenology, as a necessary ground of the ethos of responsibility, and has put into question the virtue of moderation, as originally elaborated by Aristotle, as a limit-condition for an ethics of hospitality, and suggested that the suspension of calculation, or even going to excess, manifested as *grace*, may on occasion be a more appropriate response to asylum-seekers – that the possibility has to be considered that an ethical relation with the other person goes beyond measure, proportion and reciprocity, and a pathology of *numbers*.

Derrida insists that Levinas's ethics is a thinking of hospitality; that ethics *is itself* hospitality; and that pure hospitality is impossible, but an impossibility that might in some strange way become actualisable. The phenomenological thought of Levinas opens a space of possibility within the political, where the other might be encountered in all their vulnerability, *producing the possibility of an ethical response*: the 'birth of the question', to be put in question by the other⁵⁵. The Face that puts the question, which precedes, suspends, and defies calculation, is the face of the vulnerable

⁵³ On the importance of negotiation as a theme for Derrida, see Derrida, J., and Rottenberg, E. (ed.) *Negotiations: Interventions and Interviews 1971-2001*, Stanford: Stanford University Press, 2002, p. 31.

⁵⁴ Benjamin, W., 'On the Critique of Violence', in *One-Way Street and Other Writings*, London: Penguin, 2009, p. 26.

⁵⁵ Derrida, J., *Adieu to Emmanuel Levinas*, Stanford: Stanford University Press, 1999 p. 32.

suppliant. But the paradox is that this question of possibility introduces a question, an asking, that takes the formless form of impossibility. The ethics that is rendered possible asks for nothing less than the impossible – that is part of Derrida's contribution to Levinas's ethics. For when one asks for the full recognition of the Face, which translates in actuality to tens of millions of Faces living as displaced persons, refugees and asylum-seekers worldwide; when one asks cities to become Cities of Asylum, beyond the strictures of the sovereign nation-state; when one asks states and international communities to go beyond what they believe, rightly or wrongly, are their limits – one asks the impossible. One asks for a reversal of politics-as-usual, for the disruption of the normal ontological course of self-concern, for being 'torn from oneself for another in giving to the other the bread from one's mouth'⁵⁶.

Ethics in the sense pursued throughout this thesis is this asking, a *call*, which is precisely not achievable as political or philosophical science; it retains the status of a poetics, a thirst for justice, an incessant knocking on the door of the chambers of political power. It is the contribution of Levinas and Derrida to have rendered this asking as the permanent possibility-of-the-impossible as a major theme of continental philosophy. This in turn evinces radical new possibilities for modern political theory and praxis, which nevertheless returns politics to its origins in a certain Greek vision of the just polis, and the grace of Athena's casting vote in favour of the one who seeks asylum: beyond the sovereignty of calculation and adding-up, her decision falls on the side of grace. 'Deconstruction is always on the side of the yes, on the side of the affirmation of life', Derrida said in his final interview⁵⁷; Levinas also writes of an 'unconditional yes', and an 'unlimited responsibility that exceeds and precedes my freedom'.⁵⁸ Athena gives life to that yes and yes to the life of Orestes. Her gesture suggests that politics, *if it is to be just*, must be guided by affirmation and not denial, at least in its preliminary considerations – a caesura of allowing and welcome, suspension of the spirit of seriousness, replaced by the temporary exemplariness of weightless grace, in the name of that 'infinitesimal difference between man and non-man'⁵⁹ and the 'little humanity that adorns the world'⁶⁰, a space or a moment that is phenomenal but which must also be regarded as political; that this moment which suspends or supersedes the law be allowed to happen or come to pass, where everything becomes just a little different to what it already was, even if just for a moment. Such a moment of gracious decision, realised through hospitality as an *ethos of responsibility*– ethics seen as coterminous with hospitality, '*ethics is hospitality*' - might constitute, each time, uniquely, the guarantee of human dignity that Arendt sought, and the very difference between dignified life and bare life for actual existing humans, living on the run and in all their vulnerability - before the world inevitably resumes all of its economic gravitas.

⁵⁶ Levinas, E., *Otherwise Than Being or Beyond Essence*, Pittsburgh: Duquesne University Press, 2008, P. 79.

⁵⁷ Derrida, J., *Learning to Live Finally: The Last Interview*, Hoboken: Melville House Publishing, 2007, p. 51.

⁵⁸ *Adieu to Emmanuel Levinas*, p. 3.

⁵⁹ Levinas, E., *Totality and Infinity: An Essay on Exteriority*, Pittsburgh: Duquesne University Press, 2007, p. 35.

⁶⁰ *Otherwise Than Being or Beyond Essence*, p. 185.

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