On The Dumb Sublimity of Law: A Critique Of The Post-Structuralist Orientation Towards Ethics

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Abstract

This paper stages an argument in five premises:
1. That the insight to which post-structuralist ethics responds—which is that there is an 'unmistakable particularity of concrete persons or social groups'—leads theorists who base their moral theory upon it into a problematic parallel to that charted by Kant in his analysis of the sublime.
2. That Kant's analysis of the sublime divides its experience into what I call two 'moments', the second of which involves a reflexive move which the post-structuralists are unwilling to sanction in the ontological and/or ethical realm, even if they are performatively committed to doing it.
3. That, drawing on the parallel established in 1, it could be argued that the same reflexive move as Kant describes in the second 'moment' of the sublime is also at the heart of our moral experience, wherein we are faced by the Otherness of concrete Others. This amounts to the argument that asking Others to follow an impersonal or 'dumb' law which fails to do justice to their noumenal Otherness is at the same time the only possible way to respect this Otherness.
4. (This premise seeks to provide a confirmation of 3) That what game theory shows us is that, at the limits of our ability to calculatively predict the conduct of other subjects, the only 'rational' thing to do is precisely to presume the pre-existence of impersonal social norms regulating our own conduct and that of others.
5. (The Conclusion) That, accordingly, to borrow a formulation from Slavoj Zizek, respect for the Other is always respect for their 'castration'—that is, respect for their capacity to follow norms that do not directly do justice to their concrete particularity (which is impossible) but which, in this very 'dumbness', let this Otherness indirectly show itself.
In the conclusion, I reflect on what this argument does, and upon its limits—that is, what it does not.

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It is certainly true that the use of the label 'post-structuralism' partakes of the violence that Adorno argued pertains to the subsumption of any particulars under universal concepts. Nevertheless, as has often been remarked, certain themes do unite the works of Deleuze, Lyotard, Derrida, Foucault and Levinas, and certainly unite the set of sensibilities and positions that they have engendered in their popular Anglophone reception. In this essay I want to broach what I will call the post-structuralist orientation towards ethics. This is an orientation that is held more or less implicitly by the Anglophone post-structuralists, but which has also received more direct articulations in the recent works of Jacques Derrida, and in the writings of Emmanuel Levinas. I identify two salient features of this post-structuralist orientation towards questions usually reserved for 'moral philosophy':

1. The post-structuralist philosophy of ethics is always grounded in what might be termed an ethics of philosophy. What I mean is that this orientation towards ethical questions takes its bearings from a meta-critique of Western philosophy. In each of the said 'post-structuralists', the Western philosophical heritage is taken to be a meaningfully single tradition, united by the imputed fact that all of its central statements have aimed at the reduction of the real to the rational. The post-structuralist argument is that this project either cannot and/or should not succeed without remainder. It is held to have involved the illegitimate marginalisation of forms of thought or human experience which are deemed by the post-structuralists to be epistemically and/or morally vital. As Axel Honneth has written in an essay broaching Derrida, Levinas, Lyotard and Stephen K. White:

> The very intention to criticise metaphysics also carries with it certain normative-political consequences, as the example of Adorno's philosophy shows. Whoever attempts to uncover the separated and the excluded in the thought systems of the philosophical tradition is driven finally with a certain necessity to ethical conclusions at least when, with regard to these 'others', it is a matter not of cognitive alternatives but of human subjects. In such cases, it appears justified to comprehend the element sacrificed to uniform thinking, that is, the unmistakable particularity of concrete persons or social groups, as the essential core of every theory of morality or justice. [1]

2. The second feature of what I am calling the post-structuralist orientation towards ethics is that, as Honneth notes, when a post-structuralist theory turns its attention to matters usually reserved for moral philosophy, what it isolates as the source of moral value in a person is their 'alterity'. This is all that about them that is irreducible to being conceptually and/or predictively understood. The most systematic and direct statement of this position about ethics is the work of Emmanuel Levinas. Levinas attempts to *show* (in something like the Wittgensteinian sense) that the Other is irreducible to our conceptual understanding. The singularity of his post-phenomenological inquiry, though, is that Levinas claims that the modality in which this alterity of the Other makes

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itself manifest is in an unconditional ethical demand upon us. Although Levinas abjures formulating any determinate prescription, I would hence argue that the maxim that his work- and the post-structuralist orientation towards ethical matters more generally- points towards, is something like the following:

> *'act in such a way that you always respect the absolute singularity of the other, and/or the irreducibility of otherness'.*

My concern in this paper is not to offer a wholesale critique of this position vis-à-vis ethics. My starting point here is the supposition that the post-structuralist ethical orientation captures something of the moral component of human experience. What I object to is the more or less explicit identification in post-structuralist theory between the totalising philosophical systems that form the butt of their critiques, and all regimes of determinate social norms. It is on the back of this identification that the move that Honneth charts above, from a post-structuralist critique of metaphysics to a positive post-structuralist ethical orientation, is enacted. What I want to argue, however, is that this identification, and the resulting opposition it sets in place between ethical conduct and determinate moral norms is both a false and a pre- (not post-) dialectical one. I do this through the presentation of an argument with five premises, which will be separated in the body of the essay:

1. That the insight to which post-structuralist ethics responds — which is that there is an 'unmistakable particularity of concrete persons or social groups' — leads theorists who attempt to incorporate it into a moral theory into a problematic parallel to that charted by Kant in his analysis of the sublime.

2. That Kant's analysis of the sublime divides its experience into what I will call two 'moments', the second of which involves a reflexive move which the post-structuralists are unwilling to sanction.

3. That, drawing on the parallel established in 1, it could be argued that the same reflexive move as Kant describes in the second 'moment' of the sublime is also part of our moral experience, wherein we are faced — all the time — by the Otherness of concrete Others. This would amount to the argument that asking Others to follow an impersonal or 'dumb' law which fails to do justice to their

noumenal Otherness is at the same time the only possible way to respect this Otherness.

4. (This premise seeks to provide a confirmation of 3)

    That what game theory shows us is that, at the limits of our ability to calculatively predict the conduct of other subjects, the only 'rational' thing to do is precisely to presume the pre-existence of impersonal norms regulating our own conduct and that of others.

5. (The Conclusion)

    That, accordingly, to borrow a formulation from Slavoj Zizek, respect for the Other is always respect for their castration- that is, respect for their capacity to follow a law that does not directly do justice to their concrete particularity (which is impossible) so much as, in its very dumbness, let this Otherness indirectly show itself.

In the conclusion, I comment on what this argument does, and upon its limits- that is, upon what it does not.

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Of Premise 1. Concerning the Limits of the Sayable, and a Parallel Between Levinas' Later Problematic and an Argument in Kant's Aesthetics

I want to start the argument through recollecting what is a terminal paradox around which Emmanuel Levinas' work discernibly turns. As I have commented, Levinas is the 'post-structuralist' theorist who has most directly broached moral questions, and so a theorist whose work I think can be economically considered in order to raise the problematics of the argument I want to put here. In what follows, I structure my argument through engagement with his position.

Levinas' contention is that philosophy has forgotten not Being, but the Other. In contrast to the tradition, he sets out to resurrect ethics as first philosophy. His argument proceeds phenomenologically. Through an analysis of what transpires in the immediate confrontation of a subject with the Other, Levinas puts the position that

the latter's demand upon the subject is transcendental to the subject's capacity to construct meaning. Nevertheless, Levinas stresses that what transpires when the subject is called by the Other is not something susceptible to being formulated in the constative discourse it renders possible. For him, that is, the philosophical tradition's oversight of the Otherness of the Other is not simply an empirical error. As Heidegger argued concerning the moment of concealment in *aletheia*, so Levinas contends that the Other can never be given to conceptuality. What this apparently means for Levinas' own project, however, is that *his* recollection of the Other to philosophical discourse too must- on his own terms- also betray the immediacy and said 'infinity' of what he seeks to un-conceal. Derrida makes this (and other) charges against Levinas' earlier *opus Totality and Infinity* in "Violence and Metaphysics". In the light of Derrida's criticism, Levinas' later book *Otherwise than Being* is a much more self-conscious text, whose fabric is tightly woven around the notorious paradoxes of 'saying the unsayable'. Levinas at once wants to preserve and show the pre-discursive alterity of the Other to us, yet also preserve this alterity in its absolute Otherness, in the name of which latter purpose he feels ceaselessly obliged to caution us against his own text as it proceeds.

Certain queries must be raised about such a position, I believe. Firstly: if the Otherness of the Other is *so* Other that it can only leave a "trace" in our discourse, one wonders whether it could ever feasibly form the basis of any robust ethical position, beyond that which Hegel attributes to the 'beautiful soul'. A second query, which is what sets off my argument here, follows from the fact that the semantics of Levinas' *Otherwise than Being* discernibly resemble those identified in Kant's discourse on the experience of the sublime in *The Critique of Judgement*.

Recall that what is at stake in the Kantian sublime, as in the Levinasian confrontation of the subject with the Other, is the limit of what can be represented by a finite subject as ordered phenomenal 'nature'. Kant is very precise about this. The harmonious components of beautiful objects invite the subjects' imagination to play, and yield a sense of belonging in the world, or 'the furtherance of life'. By contrast, the sensuous multitude that presents itself to the subject's apprehension when the sublime is evoked (as when the subject encounters the might of nature, or considers the infinity of the

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universe) arrest the happy play of the subject's imagination. The sentiment of the sublime, Kant stipulates, arises exactly:

> … from the inadequacy of imagination in the aesthetic estimation of magnitude to attain to its estimation by reason … [2]

Like the Levinasian subject confronted with the Other, the Kantian subject confronted with a sublime representation, that is, puts her/his constitutive epistemic equipment to work to try to apprehend it. But s/he *fails*.

Nevertheless, the thing is that — as does Levinas in *Otherwise than Being* — Kant continues to *speak*, and to speak philosophically, about what our experience of the sublime involves and invokes. He too engages in *The Critique of Judgement* in a reflection on what is involved in subjects' trying to 'represent the un-representable'. It is this that forms the topic of premise 2.

Of Premise 2: Concerning the Two Moments of the Kantian Sublime, the Second of Whose Consideration Has No Equivalent in Levinas.

My second premise is that Kant's description of what transpires when the subject is confronted with a sublime representation stipulates a reflexive moment to this experience which is absent and/or debarred in Levinas's account of the ethical relation.

As I commented in 'premise 1', Levinas' *Otherwise than Being* is characterised by its ceaseless engagement in self-reflexive denunciations of its own procedure and ambition. Levinas even at one point compares his text to Penelope's web, that is woven by day only to be unwoven every night. The paradox to which Levinas takes himself to be responding is the paradox of 'representing the un-representable'. The 'ethical relation' between I and Other that Levinas describes in the text can be schematised in the following way, where the arrow represents the attempt at conceptual objectification, and the line intersecting it a 'bar' on its possibility:

Figure 1:

impossibility

I ———————/——▶   Other
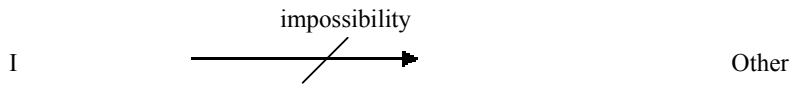
Nevertheless, Levinas' own subject-position, as he describes this ethical relation, must be schematised in a different way, as follows:

Figure 2
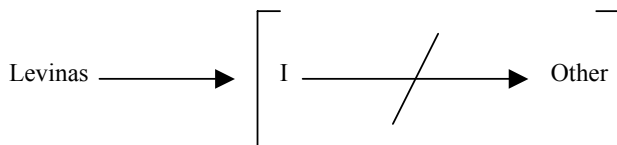
Levinas ————————▶ ⎡ I ———/——▶ Other ⎤

Whereas the line of representation within what Levinas is describing is a broken one, indicating that the subject can never totally objectify the Other, nevertheless Levinas continues to describe this datum with more or less adequacy in his text. This is why the arrow leading from 'Levinas' to the brackets in figure 2 is unbroken. And it is this fact that provides Levinas with worries. Levinas' anxiety in *Otherwise than Being* is that any theoretical objectification of the ethical relation between I and Other, insofar as one of the terms of the relation — the Other — is properly un-representable, will properly fail to the extent that it succeeds. Levinas is convinced that this theoretical representation will objectify the Other no less than when any subject tries to reduce a living Other whom he confronts to a mere means for his own prior purposes.

What I would finally suggest, against Levinas, is that this identification between any reflexive apprehension of the ethical relation, and the failed direct or 'first order' attempt of the I to directly represent the Other, is illegitimate. What I want to stress in this 'premise 2' is how, in Kant's analysis of the sublime, something like such a reflexive apprehension of the impotence of representation is actually 'built in' to the phenomenon that Kant describes.

What Kant argues in *The Critique of Judgment's* analytic of the sublime is that, in

what I am calling a second 'moment' of its experience, the subject's imagination as it were doubles back on itself, and attains an 'indirect' pleasure. The displeasure associated with experiencing our own cognitive incapacity to comprehend this or that sublime object, Kant says, yet gives rise to

> … a simultaneously awakened pleasure, arising from this very judgement of the inadequacy of the greatest faculty of sense being in accord with ideas of reason … [3]

This pleasure-in-pain arises, Kant argues, because the subject now apprehends the very failure of its own capacity in what I call the first 'moment' of the sublime as not simply something to be lamented. S/he now — instantaneously — perceives this failure itself as a metonym of the failure of representation *as such* before the transcendent dimension of reality- the dimension which Kant thinks that our Ideas of Reason give us an intimation of. The two moments that I am dividing from *The Critique of Judgment* can be diagrammatically represented in the following way.

Figure 3: The 2 'Moments' of the Kantian Sublime
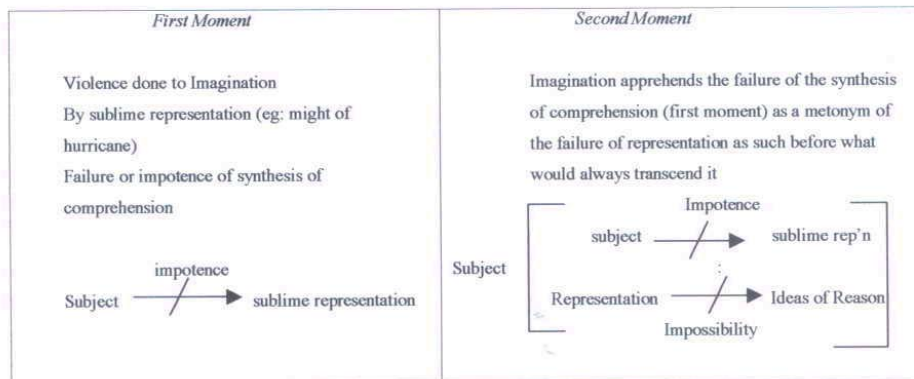
Two things are in point here:

- The first point is that, as in Levinas' theoretical practice in *Otherwise than Being*, the experience of the sublime in Kant's account is always also the experience of the experience of the sublime.

- The second point that is decisive in differentiating Kant's account of the sublime from Levinas' position, though, is the fact that, by way of the second 'moment' of the experience of the sublime, Kant effectively argues that the sublime representations operate as something like 'schematisations' of the noumenal Things intimated by our Ideas of Reason. To be sure, because what is invoked by the sublime objects *are* these un-representable Things, each Kantian sublime object represents, as Zizek puts it: "… a failed schematism …" Nevertheless, the point is that it remains that the sublime representations do as it were serve to *manage* the subject's bearing vis-a-vis the Noumenal Beyond that we would otherwise be simply traumatised by. The very "might" or "magnitude" of these sublime objects that affronts our usual sense of 'how the world is', for Kant, are *the best possible* indirect representations we can have of the noumenal Beyond; insofar as the violence which they inflict upon the imagination as it were calls to mind that our normal phenomenological self-experience is not all that there is. This is why Zizek, having noted the necessary failure of the 'scheme' that any given sublime object is, nevertheless continues that each "… is a strange case … of a scheme that succeeds through its very failure". [Zizek, 1999: 40] And my contention is that it is exactly the possibility of such a 'second order' or 'reflexive' representation of the impossibility of objectifying the non-phenomenal Other that Levinas debars, even to his own theoretical practice.

The Kantian position on the sublime, by contrast, amounts to the proposition that there where the faculties of our comprehension encounter an impossibility, it still remains to us to reflectively adduce a representation of this very impossibility. This is the second moment. Such a representation in no way lays claim to an adequate representation of what the direct 'first order' attempt to represent the un-representable failed to grasp. It instead acknowledges this failure as its own object, and in this way indirectly keeps an appreciation of the 'alterity' of the noumenal Thing in question. A good example of this Kantian thought is actually to be found in Hegel's treatment of the Egyptian Rosetta stone in *The Phenomenology of Spirit*. For Hegel, the Egyptians did not share the Greek faith in appearances. They were aware of the irreducible gap between the inner world and the fabric of the outer world through which it might be artistically represented. The blank black Rosetta stone, for Hegel, thus is not to be read as some

kind of failed act of communication. What it stands as, in its mute presence, is a metonymical representation of *the failure of all representation* of the inner world of subjectivity. In Hegel's very famous line, the mysteries of the Egyptians were mysteries for the Egyptians themselves. [4]

Of Premise 3: Where the Reader Learns, to His/Her Surprise, How the Law May be a Moral Rosetta Stone

The third premise of my argument is even the most important. It proposes a speculative venture: that we consider a parallel to the move embodied in the second moment of the Kantian sublime in the moral field as demarcated in the work of Emmanuel Levinas. What this means is that we accept the Levinasian / post-structuralist premise that the Other is irreducible to our calculative understanding- a premise which is arguably already figured in the second formulation of Kant's categorical imperative. This Otherness is what we shall want to preserve, in order to produce an adequate theory of morals and/or a moral theoretical statement. However, we now do not stop with this recognition of a first order impossibility. Perhaps, in a subject's confrontation with the Other, where there is an irreducible 'mismatch' between the form of its position (how its faculties predispose it to conceiving of the Other) and the imputed 'content' of this object — which, because it is the Other, is exactly *not* one more intra-worldly object — we must admit of the possibility that the subject can and even has 'always already' reflexively assumed this 'mismatch' in its comportment vis-à-vis the Other. This would involve our recognising the existence of a mediating object that, in its dumb presence, as it were 'schematises' the Otherness of the Other.

Two complications needs to be admitted in and by my argument for it to proceed at this point, then.

- The first complication is that, in Levinas' estimation, it is not just that the subject is unable to comprehend the Otherness of Others. At the same time, moral norms are held to be inadequate to this alterity. Levinas maintains that norms are like to totalising philosophical systems that subjects can and have

constructed, in covering over this traumatic Otherness. They reduce the properly assymetrical 'face to face' relation between I and Other to a symmetrical and calculative relation of equals standing 'shoulder to shoulder'. They are not adequate to the ethical demand of the Other upon the I. Schematically, this Levinasian equation can be represented like this:

Figure 4:

subject ———/——▶ Other   =   Law ———/——▶ Other
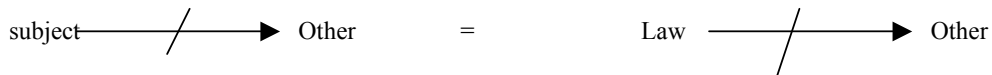
- The second complication is that, in Kant's analysis, what is finally at stake in the experience of the sublime is *not* the sublime objects. As the 'second moment' of the sublime examined in 'premise 2' (and schematised in figure 3) shows, these objects are as it were but the phenomenal proxies for Kant through which what the Ideas of Reason intimate to our intellect (for example, God, the Good) are invoked in our experience. Experiencing my own impotence before the might of the hurricane, what I get is a sense of my much greater impotence as a finite creature before and beneath the Idea of the Good. By contrast, in Levinas, the Other that confronts the subject invokes nothing but itself in its Otherness. In its material appearing, Levinas stresses, it is exactly non-dialectisable, and a proxy for nothing. This is why Levinas describes its confrontation as so traumatic for the subject. What is at stake in my 'third premise' here, then, is as it were the possibility of a schematising representation of the Other that is denied in Levinas (and post-structuralism more generally). I am concerned with the possibility of what one could call, invoking Lacan, 'a signifier for the absence of a signifier' that would directly adequate to the alterity of the Other.

What might such a schematising representation be, when we are considering the Other in its Otherness? To be direct:

> *my speculation ('premise 3') is that prescriptive norms <u>per se</u> can and ought to be philosophically conceived in exactly this way, as the peculiar discursive media through which we become able to treat of the untreatable Otherness of*

> *Others. Perhaps, that is, codified norms are like to the sublime objects in Kant, which at once fail to fully schematise what is invoked by our Ideas of Reason, (God, the Good, etc.), yet — in the violence they inflict on the imagination — give indirect testimony to the grandeur of these Ideas.*

What this would mean is that we would have to abjure the external opposition between normative Law and 'Otherness', which holds that the Law is there to deny or repress our singularity. We would still agree with the post-structuralists that, in its treating all the subjects that it interpellates equally, there is no doubt that every normative code as such passes over the sensuous particularity of each Other. We would still agree with the post-structuralists that, insofar as norms treat of individuals in their particular circumstances at all, they properly legislate that to each should be given only what is theirs by virtue of being one subject amongst multiple others — shoulder to shoulder with these same, rather than face to face.

Yet, beyond post-structuralism, we would not only be reasserting what the post-structuralists (as good Nietzscheans) do not ever need to deny- namely, what could be termed the 'empirical' necessity of having such normative codes, in order that people can live in community. We would also be asserting what could be termed an 'ontological' function for these codes. This ontological function would be to as it were preserve a space for the un-representable Otherness of the Other or Others precisely by being so crude or dumb: by *not* demanding everything of them, or that absolute justice be done to them at every instant. We would be arguing that the bearing proper to a subject of the Law towards Others is not wholly captured in the simple imperative: *follow the laws!* We would be arguing that, implicit in such an imperative, there is a subtext, so that we should hear the *follow the laws!* proper to moral subjectivity as:

> *'follow these norms, though I know well that in their mechanical dumbness they do not do justice to you, and your inestimable Otherness.'*

The idea here is an evident one. Just as sublime objects do not directly adequate the Ideas of Reason that Kant thinks are at stake with the sublime, so any code of law will

not adequate to the Others in their Otherness. In the first moment of what I am proposing to call 'the dumb sublimity of Law' the subject would apprehend this inadequation, or (Levinas would say) have it impressed upon him/her. But, as with the Kantian sublime, there is a second moment. In this moment, the subject would implicitly have accepted that the dumb inadequacy of any particular normative law to treat properly of the Other is a metonym of the strict impossibility of any descriptive or prescriptive discourse to ever do justice to the Other in their Otherness, which is hence indirectly sanctified. This 'dumb sublimity of law' is schematised in figure 5:

Figure 5: The 2 'Moments' of the Dumb Sublimity of Law
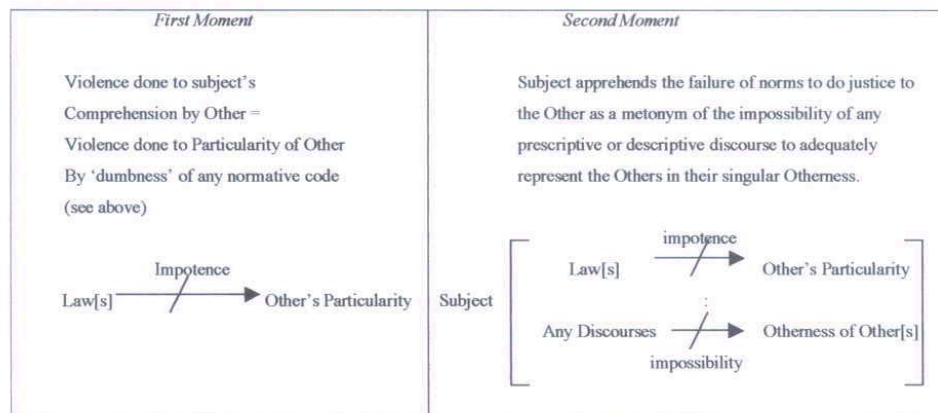
In legislating against the asymmetrical treatment of any particular Other, my 'Premise 3' would say, what we are doing (to put it in quasi-Heideggerian terms) is precisely 'letting the Other be' in their Otherness. Or, as Slavoj Zizek has put it: '*Love* Thy Neighbour? No thanks'. [Zizek, 1997: chapter 2]

Of Premise 4: Concerning What Happens When Empathy Fails

As I stated in introducing the paper, the fourth premise of the argument confirms what I proposed as a speculation in 'premise 3'. As it stands, this 'premise' stakes a descriptive claim in moral theory. However, it only adduces as its 'proof' whatever elegance pertains to the semantic parallel between our confrontation with the Other and Kant's description of the sublime that it is derived from, and whatever *prima facie*

credibility its final descriptive assertion can muster.

In this section, I want to try to provide something like a demonstration of how the principle established in 3 might be an accurate one. I do this by drawing on game theory, as employed in Jacques Lacan's paper on 'Logical Time', a paper that is also central to Slavoj Zizek's argument in his 1996 work *The Indivisible Remainder*. In this paper, Zizek recounts, Lacan staged a variation on the well-known prisoner's dilemma. The scenario he recounts involves a situation wherein three men have been imprisoned. The governor has decided that he will give an amnesty to one of the three men. As a good sadist, the way he will decide who to release is to submit the imprisoned men to a test of intelligence. Each prisoner will wear one hat, which will be either black or white hat. Only the other two prisoners, and not each prisoner himself, will be able to see the colour of this hat. Each prisoner will also know that there were only five hats available to the governor, three white and two black. Given these constraints, the winner will be the prisoner who first can establish his identity, and get up and leave the room. Needless to say, in order to discourage guessing, if someone leaves the room and gets it wrong, the price will be that he will be shot.

Zizek exposes three possible cases here, of increasing complexity.

i.   In the first case, there are two black hats and one white hat. Since the prisoner with the white hat knows that there are only two black hats in the pool, he can immediately rise and leave the room.

ii.   In the second case, there is only one black hat and two white hats. The two people with the black hats can hence see one white hat and one black hat. The person with the white hat can see two black hats, but- since there are three black hats in the pool- he also cannot immediately rise. Here, what is required for one of the prisoners to win his amnesty is the exercise of empathetic reasoning- or of 'trying to put oneself in another's shoes', as we say. (Note that while this empathetic capacity to 'think through the Other' might seem to correspond to a Levinasian style of ethics, in fact it absolutely does not. Levinas would rightly see that this 'putting of oneself in the other's

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shoes' involves a form of objectifying them: acting as if we could in fact know what is that they wanted or required.)

The only way for a winner to emerge in this second case is if one of the two persons with a white hat reasons in this way to himself: 'I can see one white hat and one black hat, so mine might be white or black. However, if mine was black, the prisoner with the white hat would see two black hats and immediately conclude that his was white. He would have stood up and moved immediately. But he hasn't done this. So mine must be white.' (Note that either of the two white hat-wearers could reason this out, so we must assume that, if they are of equal intelligence, they both will rise at around the same time. But, if this occurs, they will each also be able immediately to work out why the other has arisen.)

iii.   The third case is the most interesting. This is because it represents a case of such inter-subjective complexity that the empathetic-calculative reasoning of any of the prisoners cannot by itself yield to any of them a sure result. The case is that where each of the prisoners is wearing a white hat. Each can accordingly see two other white hats. Each can accordingly reason in the same mode as the winner in case 2 had, in the following way: 'I can see two white hats, so mine must be white or black. But if mine was black, either of the two others could reason (as the winner in 2 does): "I can see a black hat and a white hat. So if mine is black, the prisoner with the white hat would see two black hats and immediately conclude that his was white and leave. But he hasn't done this. So mine must be white.' But since neither of the other two has stood up, my hat must not be black, but white too'.

There are two important things here, as Zizek stipulates in *The Indivisible Remainder*:

-   The first follows from how each prisoner in this third case is in the same situation. Each thus could carry out this complex reasoning. Hence, if we assume that they have equal cognitive capabilities, each would get up at approximately the same time, as the two white hat-wearers would in the

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second type of case.

- The second thing is that, if all three indeed arose at the same time, this would cast each of them into a radical uncertainty about their identity. Why is this? It is because each subject could not know whether the others have stood up due to going through the same reasoning process he has gone through, since he is wearing a white hat; or whether each had reasoned as the winner in the second type of case had, because he was wearing a black hat.

The point of Zizek's adducing of this artificial case, as I read it, is to demonstrate that at a certain point of inter-subjective complexity, it becomes impossible for any one subject to empathetically know the mind of the Others, and/or how it is that the Others think of *them*. His Lacanian version of the prisoner's dilemma, that is, is supposed to show what Levinas sought to show through a direct phenomenological analysis of how the Other appears — and precisely *fails* to appear — to subjects' apprehension

The key thing for the argument here, then, is what we must presume happens at the final moment in the third scenario Zizek analyses. This is the moment when each prisoner is thrown into radical uncertainty as to what they are for the Others. At the point of their mutual hesitation, each of the prisoners is 'every bit other' to the others, as Derrida might say. What is clear, though, is that, in this situation of unknowing, the only way any one of them might 'succeed' is actually through committing what might *always* in principle be an 'error'. In the prisoner's dilemma as described, this will amount to a perilous leaping for the door, before the Others can, based on a precipitous assumption of an identity (white hat or black hat). In a broader social setting wherein two subjects confront each other, it will amount to one or other of them precipitously assuming a roles or 'persona', which is a normative construct that depends for its consistency upon a body of *doxa* concerning 'what people do' that in turn will only hold if it is given sanction by others.

Given the unknowability of the others identified by Levinas / post-structuralism, that is — and accordingly also our inability to know what they think about us — all we

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can do in order to get along with them is make such a 'precipitate identification' with a body of norms. [Zizek, 1998: 135] What we are bound to hope for is that the others, likewise placed, will then sanction our move, in the supposition that our action was based on the knowledge that they lack. Our act of assuming such an identification within and *with* a body of shared norms hence avoids the primordial impasse of the "opacity" of the others' intentions to us, as Zizek puts it. Yet it does this through the curious anticipatory gesture of:

> … *presupposing the coordination-of-intentions as already given*
> in the purely virtual Third Order of impersonal rules, so that now
> the problem is no longer: 'Do individuals truly understand each
> other?', but 'Does every individual follow the *common rules.*
> [Zizek, 1998: 140]

What I am saying in 'Premise 4', then, is again that Levinas and the post-structuralists are right to assert that not only *shouldn't* we objectify others, but that in point of fact we *can't*. However, I am contending that a recognition of this does not radically call into question the legitimacy of social norms or laws *per se*. I am disagreeing with Levinas, Derrida, Critchley and Honneth — that at least an appreciation of ethics requires that we implement such norms with a constant reparative eye to their constitutive inadequacy to do justice to the singular Others. The reason is that what Levinas identifies as the external condition of impossibility of binding social norms or laws is actually their generative condition of possibility. As Foucault differently recognised, there is no power without free subjectivity given and upon which it is enacted. To cite Zizek's explanation:

> A genuine community … emerges by means … [not of]
> endlessly pursuing the hopeless search for some positive
> common denominator [eg: a knowledge of what the other is and
> what they want from us] … [but by] *presupposing this*
> *denominator as already present* [in a body of socially recognised
> norms regulating individual and inter-subjective behaviour] —

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and the price to be paid for it is the *virtualisation* of this denominator. What we are dealing with here is a kind of short circuit, a deceptive substitution: future is confused with past, what is to come is confused with — [or] referred to, presented as — what is already here. The gesture of 'declaration' — of declaring oneself a free subject, for example — is always performed 'on trust': it refers to, relies on, something which, perhaps, will emerge as the outcome of this very act of declaration. In other words, such a gesture sets in motion a process which, retroactively, will ground it- and if this process is to take off, the deception is necessary: that is to say, its (possible) consequence *must* be presupposed as already present.

[Zizek, 1999: 40]

Premise 5 / Conclusion: Respect for the Other is Respect for Their Capacity to Follow Norms

To recall:

- premise 3 amounted to the claim that perhaps norms are to be interpreted as functioning in the moral field in the same way that Kant argues that sublime objects function ontologically. There is no question of them adequating the singularity of Others, as there is no question for Kant that the 'might' of nature is even of the same qualitative order as the Ideas of Reason. However, by virtue of norms mechanically or 'dumbly' making demands upon the Other that each subject implicitly knows do not reach (or even aim to reach) the Others in their 'Real' alterity, these norms indirectly allow the Otherness of the Others to perdure.

- premise 4 is the argument, presented in Zizek's work, that the Law is not a 'repressive' objective apparatus more or less forcibly superimposed upon the unknowable singularity of Others. The unknowable singularity of Others is

the generative condition of possibility of social norms, without which these norms would not be necessary.

The conclusion that I want to defend, given these two mutually reinforcing premises, is one that Zizek puts forth in his piece: "Kant with (or against) Sade". It is a thesis in what could be termed the phenomenology of moral experience, and what 'shows itself' in and through a respectful comportment towards Others. In this piece, Zizek claims:

> … *respect is ultimately always respect for ([the] Other's) castration* ... what makes a man worthy of respect is the very gap of castration that forever separates him as a 'real person' from his freedom as symbolic feature ... [Zizek, 1999a: 292, 294]

Note then that a certain reflexivity is included in Zizek's formulation here. When we respect someone, Zizek says, we do not lay direct claim to knowing their ultimate truth 'in the Real', as Lacan might have said. Yet this does not mean this 'alterity' is not what we do respect in others, when we respect them at all. It is just that, according to Zizek in this formulation (and according to what I have argued in different ways in premises 3 and 4), this alterity can only be 'let be' insofar as we recognise "the very gap of castration that forever separates him as a 'real person' from his freedom as symbolic feature". If this 'castration' were to be denied, or if- in the terms of my argument- we were to try to 'cut out the middle man' of social norms, Zizek's position (and mine here) is that we would never attain to the Other in their Otherness, at least not in any form that we would want to sanctify.

Conclusion

So, perhaps my conclusion ('Premise 5' — 'Respect for the Other is Respect for Their Capacity to Follow Norms') — needs to be read as a distant take on what is the most famous paradox in Kant's practical philosophy, bemoaned already by Nietzsche. This is Kant's position that the only way our noumenal freedom can manifest itself in the phenomenal world is precisely by following the moral law, and submitting

ourselves to the dictates of practical reason. The only order that Kant thinks can conceivably suspend the iron dictates of natural necessity is the apparently no less strident dictates of moral norms. However that may be, what I do believe my paper points towards is a serious ontological failing in post-structuralist theory, in the implicit identification of normative systems with the conceptual theoretical systems that they critique. If this identification does not hold, as I am suggesting it vitally does not, then the post-structuralist ethical orientation loses what is even its ground, and certainly the ground that makes it so superficially attractive for the 'New Left'. Rather than setting ourselves up in the happy, but finally intellectually tiresome and practically implausible opposition to all determinate codes, if my argument is correct, we would have to undertake the much more arduous theoretical tasks of weighing between different species of them.

My final remark is that this argument is a limited one. It operates wholly at the level of form, not of content. What I have defended is only the form of moral norms — that we should have them — not any particular code. The reason is that it is the form of lawfulness *as such* that is the final object of the post-structuralist ethical orientation. How far this argument, and what it involves, can carry us into substantive evaluative questions is another matter.

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NOTES

[1] Honneth, Axel. "The Other of Justice" in *The Cambridge Companion to Habermas* (Cambridge: Cambridge University Press, 1995), p. 290.

[2] Immanuel Kant. *The Critique Of The Power of Judgment*, *in The Cambridge Edition of the Works of Emmanuel Kant*: GB, 2000. Translated by Paul Guyer and Eric Matthews, p. 128.

[3] Ibid., p.141.

[4] Hegel, G.W.F. *The Phenomenology of Spirit* trans. A.V. Miller (Oxford: Oxford University Press, 1977), p. 453.

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