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FACE TO FACE WITH CHILD ABUSE: TOWARDS AN ETHICS OF LISTENING *

ABSTRACT. This paper is concerned with *faces*. It is concerned with the face of a sexually abused seven years old child – with my face – and with the marginalisation and violation of children’s own subjective experiences of abuse by the law. Drawing upon my own *subjective experience of sexual abuse* as a young child, silenced for twenty-five years, I interpret my own sexual abuse as a profound experience of ‘homelessness’. To be homeless is to lack a primal place in the world, to be in a *permanent state of disorientation*, to be *displaced*. To be homeless is not necessarily to be emotionally insecure, but to be *voiceless*. Accordingly, the *subject* of sexual abuse is an *emotionally dislocated* subject and I interpret my own abuse in terms of an *enduring experience of the violation of place*. In other words, I would argue that the physical act of sexual abuse is less important than the *site* or *place* of abuse. The significance of sexual abuse is that it reveals the homelessness of our own sojourn and the poverty of our own subjectivity. Given this interpretation, I find the *1989 UN Convention on the Rights of the Child* problematic and I attempt to think child sexual abuse in ethical terms. Following *Emmanuel Levinas*, I present sexual abuse in terms of the *ethical significance of the face-to-face* relationship and I argue that *rights-based* advocacy must *listen to what children say*. It must think through what listening to that voice entails in ethical terms.

KEY WORDS: child abuse, homelessness, ethics, subjectivity, human rights, Levinas, listening, voice, emotional dislocation

“We are human before being learned, and remain so after having forgotten much”.¹

1. INTRODUCTION: INNOCENTS’ LOST

What lies in a face? Facing and defacing: what truth seeks revelation in a face? Faces are strange things. The face masks and conceals, rendering the visible invisible. The face betrays and reveals its time-locked secrets,

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¹ E. Levinas, *Outside the Subject* (London: Athlone Press, 1993), 3.



rendering the invisible visible. Faces come in a variety of different shapes, colours and forms. Keep a straight face. Do an about face. Save face. Put on your best face. Wipe that smile of your face. Bare-faced cheek. Face up to things. Faces give away everything and nothing. Faces are both confessional and performative, meandering between facade and avowal. The face offers and masks itself as an object of knowledge, designating both appearance and truth. What could be more strange, and more beautiful, than the shape, colour and form of the innocent face of a child. There is a strange poetry in a child's face and two strange things in a face: firstly, its extreme fragility and, secondly, its authority. A child's face is as delicate as an embarrassed blush of the senses or a snowflake as it evaporates in a melt of nubile dryness. What could be more delicate and more 'vulnerable' than the naked face of an abused child suffering passively and screaming imperatively. What importance should we attach to this fragility? To what extent does this fragility oblige us and render us responsible?

I am concerned with the frail face of a sexually abused seven years old child. I am concerned with 'my' own face and with a single, solitary experience of sexual abuse in my own 'home', under my own 'roof'. I am concerned with *my rights* and with *the rights of other children* under the UN Convention on the Rights of the Child. I want to argue that *if* a rights-based approach to children is to be adopted and advocated, then it must be an approach which, as Eekelaar has argued, 'hears' what children say,² an approach which listens to the child's voice. Such a listening can and should be ethical and in this paper I attempt to listen to the voice of the child in Levinasian terms. I implore you to listen to my voice.

When the other faces me with a gesture of his hand, with a word of greeting or with a broken smile, the other appeals to me, exposing himself to me as a surface of suffering and vulnerability. His face speaks to me, usurping my language and place, making me responsible. This responsibility *to* and *for* the fragile and destitute knows no escape, knows no vicarious substitute. Such responsibility is a bond with an imperative order, a command emanating from a lofty height and the locus where this bond is articulated is in the face of the abused child who faces. To be responsible is to recognise in the face that faces an injunction to answer for that child's destitution and suffering by sacrificing oneself *to* and *for* that Other. It is to recognise an injunction to answer for the poverty of that child's non-place and homelessness. It is to recognise the disturbance of the sacrosanct complacency of the autonomous self.

² J. Eekelaar, "The Importance of Thinking That Children Have Rights", in P. Alston, S. Parker and J. Seymour, eds., *Children, Rights and the Law* (Oxford: Clarendon Press, 1992).

2. FACING UP TO CHILDREN'S RIGHTS

2.1. *The ethics of the face*2.1.1. *Foreign faces*

Picture a child's naked face. Picture vulnerability, exposure and suffering. Picture, if you will, the naked face of an abused child – my face – the child as 'victim' and how easily children become 'victims'. It is difficult to picture an abused child's face. As Kitzinger points out, in media portrayals of child abuse,

[t]he abused child is represented by an anonymous figure sitting limp and despairing with her head in her hands, or by the brother and sister gazing out wistfully from behind a window, or, sometimes, simply by a broken doll.³

The construction of the child's anonymity appears to be constitutive of the child's vulnerability, of his/her foreignness and strangeness. Often, the images can be objectifying and voyeuristic images in themselves. The anonymity, limpness and despair, the distorted child's body, all emphasise his/her youth and passivity. It is easier to shut one's eyes in the face of such images than to close one's ears to the voice of the child. It is easier for us to remain untouched and unmoved by what we see than by what we hear. These images *can* be kept at a distance. It is more difficult to distantiate a voice – not to hear – but often, when the child's voice is heard (legally but not ethically) it is distantiated, hushed and silenced. A child is a child and children lie. Children fabricate, imagine, act, tell half-truths, are mistaken. Such voices need silencing. Even the notion of 'childhood innocence' has itself become a source of titillation for serial abusers. Innocence and vulnerability have become fetishised and reinforce children's status as desired 'sexual objects'. Conversely, as Kitzinger argues, innocence simultaneously stigmatises the 'knowing' child and its romanticization serves to exclude those children who do not conform to the 'ideal' (as if there could ever be an 'ideal' child abuse victim). Innocence is, then, "a problematic concept because it is itself a sexual commodity . . ."⁴

Sometimes, the notion of childhood innocence is stripped away by legal discourse and children are treated as "if they were little adults without child-like characteristics".⁵ In other words,

³ S. Kitzinger, "Defending Innocence: Ideologies of Childhood", *Feminist Review* 28 (1988), 77.

⁴ Kitienger, *supra* n. 3, at 86.

⁵ M. King and C. Piper, *How the Law Thinks about Children* (Aldershot: Gower, 1990), 131.

[t]he complexities and sensitivities of their emotional, physical and intellectual development do become simplified into legal precepts and rules of thumb which guide decision-making.⁶

As a result, the nature of the trauma and the effects that the abuse has on the child's relationships are not clearly perceived. The legal processes of simplification at work in the construction of sexual harm to children have the unfortunate effect of marginalising and violating the child's own subjective experience of sexual abuse. In other words, the law does not listen or is incapable of listening to the child's experience. The law is incapable of cultivating a 'child-responsive' approach to sexual abuse because legal discourse, as O'Donovan has argued, denies children's subjectivity. In other words, "children's ability to act as juridical subjects is non-existent in law".⁷

An abused child's face does not necessarily reveal any signs of abuse. There may be no distinguishing *physical* marks of abuse or, indeed, any other symptomatic behaviour demonstrative of sexual abuse.⁸ The face does not reveal any 'physical' evidence of sexual abuse. One cannot 'see' evidence of genital fondling or masturbatory activity; and vaginal or anal penetration, leading to vaginal scarring, reflex anal dilatation or damage to the child's hymen, is not visible in the child's naked face.⁹ The obvious distress signs following abuse – flashbacks, nightmares, inappropriate sexual activities, depression, anxiety, etc.¹⁰ – may not be immediately apparent, and in any event,

the absence of such signs of disturbance, or the appearance of recovery from them, should not be taken as indicating either that no harm has been caused or that its effects were transitory.¹¹

'We' are all exposed to the vulnerability of faces, in particular, the vulnerability of an abused child's face. The face of suffering that draws us near, silently calls out to us and commands us. What distinguishes, therefore,

⁶ King and Piper, *supra* n. 5, at 131.

⁷ K. O'Donovan, *Family Law Matters* (London: Pluto Press, 1993), 90.

⁸ See L.P.Cotter and K. Kuehnle, "Sexual Abuse within the Family", in S.A. Garcia and R. Batey, ed., *Current Perspectives in Psychological, Legal and Ethical Issues: Children and Families: Abuse and Endangerment*, Vol. 1A (London: Jessica Kingsley Publishers, 1991).

⁹ See A. Salter, *Treating Child Sex Offenders and Victims* (London: Sage Publications, 1988).

¹⁰ See E. Jones and P. Parkinson, "Child Sexual Abuse, Access and the Wishes of Children", *International Journal of Law and Family* 9 (1995), 54, 79; D. Finkelhor, *Child Sexual Abuse* (New York: Free Press, 1984).

¹¹ Jones and Parkinson, *supra* n. 10, at 79.

the abused child's face from the face of a non-abused child? What does this or that face *signify*? Is it possible, indeed, to *re-present* the trauma of sexual abuse in the face? In short, no. To see why this should be so, let us now turn to the work of Emmanuel Levinas.¹²

2.1.2. *Ethical metaphysics (or heterology)*

In the Levinasian conception of ethics, 'ethics' occurs as the calling into question "of the ego, the knowing subject, self-consciousness . . . or the same".¹³ In other words, for Levinas, ethics is *critique*, "the putting into question of my spontaneity by the presence of the Other".¹⁴ The ethical is, therefore, the location of a point of exteriority or alterity, an alterity that cannot be hijacked by, or reduced to, the Same. The Other calls the Same into question. Who or what is the Other? The Other is not only an alter-ego, but is what I myself am not, that is, an *alter-non-ego*. For Levinas, the ego is not a monad placed in a community of other monads. The ego is not alongside its neighbours, but is actually formed in a response to the neighbour prior to the advent of the neighbour's presence. The self is always hijacked by the other and accused by the other. Alterity cannot be reduced to the same and escapes the cognitive powers of the knowing subject, that is, alterity is non-thematizable.¹⁵ Ethics disturbs the complacency of ontology and logocentrism – it is 'an-archic'. Levinas' concern is with the dynamics of the intersubjective relation, a relation that is, for him, both ethical and mysterious. He finds the 'mystery' of intersubjectivity not within subjectivity itself, but in the Other. In other words, 'mystery' is a relationship with the Other and a profound discourse between two unequals.¹⁶ The relation between Self and Other is a relation of inequality and in this inequality each relation is transcendent to the other. The identity of each term is constituted by alterity. For Levinas, the other person constitutes the ethical meaning of the self's existence and his ethics rests on the initiative of the other in the intersubjective relation.

Levinas does not seek to provide a schema for a normative theory of ethics or morality,¹⁷ if we understand 'ethics' as a doctrine about moral principles, norms, obligations, and interdictions that rule human beha-

¹² I shall be referring in the main to *Totality and Infinity. An Essay on Exteriority* (Pittsburgh: Duquesne University Press, 1969), trans'd A. Lingis.

¹³ S. Critchley, *The Ethics of Deconstruction. Derrida & Levinas* (Oxford: Basil Blackwell, 1992), 4.

¹⁴ Levinas, *supra* n. 12, at 43.

¹⁵ Thematization being the mistake of onto(theo)ology in Levinas' eyes.

¹⁶ Levinas, *supra* n. 12, at 297.

¹⁷ See P.H. Werhane, *Levinas's Ethics: A Normative Perspective without Metaethical Constraints* (1995). On Levinas's distinction between the ethical and the moral see Richard

viour.¹⁸ On the contrary, his concern is with the determination of what Derrida has called an ‘ethics of ethics’,¹⁹ that is, of determining in a philosophical context the *pre*-theoretical ground of ethics. Levinas is not interested in prescriptive ethics nor descriptive ontology nor in constructing any system of ethics, but instead seeks only “to find its meaning.” It is the chiasmus of these for which he, as Llewelyn argues, reintroduces the paleonym metaphysics,

the religiosity of the self, meaning by that that the ego is bound to the other prior to ethical and ontological principles; prior to any principles at all.²⁰

Metaphysics in the Levinasian sense refers to the attempt to decentre onto(theo)logical discourse. It is the ethical signification of the Other which challenges the fundamental status of onto(theo)logy. Metaphysics is already ethical and as such, metaphysics does not seek foundations for ethics in ontology – it is metaphysics beyond ontology, the social beyond ontology.²¹ And it is ethical not merely because he aims to present a code or metaphysics.²² Levinas insists that ethics only comes into its own with the collapse of onto(theo)logy. The critique of metaphysics ends onto(theo)logical ethics, yet, for Levinas, ethics not only survives the end of metaphysics, it finally comes into its own with the end of metaphysics.²³ The ethical question is not the question of essence (not a modality of essence) – ‘What is ethics?’ – because this question precisely excludes the force of the ethical question, collapsing the “ought” into the “is” of ontology: ethics is prior to ontology.²⁴ On the contrary, rather than asking

Kearney’s “Dialogue with Emmanuel Levinas”, in R. Cohen, ed., *Face to Face with Levinas* (New York: SUNY, 1986).

¹⁸ B. Schroeder, *Altared Ground. Levinas, History, and Violence* (London: Routledge, 1996), 102.

¹⁹ J. Derrida, “Violence and Metaphysics. The Thought of Emmanuel Levinas”, in *Writing and Difference* (Chicago: University of Chicago Press, 1979), trans. A. Bass, 111.

²⁰ J. Llewelyn, *The Middle Voice of Ecological Conscience. A Chiasmic Reading of Responsibility in the Neighbourhood of Levinas, Heidegger and Others* (London: Macmillan, 1991), 26.

²¹ E. Levinas, “L’ontologie est-elle fondamentale?”, *Revue de métaphysique et de morale* 56 (1951). See also, R. Bernasconi, “Levinas: Philosophy and Beyond”, in H.J. Silverman, ed., *Philosophy and Non-Philosophy Since Merleau-Ponty* (London: Routledge, 1988), 232–258.

²² See J. Llewelyn, “Levinas, Derrida and Others vis-a-vis”, in R. Bernasconi and D. Wood, eds., *The Provocation of Levinas. Rethinking the Other* (London: Routledge, 1988), 136–156 and Llewelyn, *Beyond Metaphysics? The Hermeneutic Circle in Contemporary Continental Philosophy* (London: Macmillan, 1985).

²³ P. Nemo, *Emmanuel Levinas. Ethics and Infinity. Conversations with Phillippe Nemo* (Pittsburgh: Duquesne University Press, 1985), trans. R.A. Cohen.

²⁴ Levinas, *supra* n. 12, at 42–48.

what ethics 'is', one can instead ask the non-essential question of whether or not ethics is better than being.

2.1.3. *The face-to-face relation*

Is not the face given to vision?²⁵

Levinas' ethics is constructed around an exterior being which he names 'face', that is, "the way in which the other presents himself, exceeding *the idea of the other in me*".²⁶ The face is the condition for the possibility of ethics and the ethical relation is, accordingly, one in which I am related to the face of the Other.²⁷ Levinas locates the point of exteriority in the face-to-face relation. The quasi-phenomenology of the face worked out by Levinas and the ethical metaphysics (or heterology) he has constructed on it are, as Lingis argues, devoted to the elucidation of the alterity of the Other.²⁸

What does Levinas understand by the 'face'? Facing is the move by which otherness (alterity) breaks into the sphere of phenomena. The face is not the turning of a surface, but an appealing and a contesting, an imperative to respond. The locus where this imperative is articulated is the other who faces and his/her otherness is the dislocating locus or site of my obligation and responsibility. As Levinas argues,

The facing position, opposition par excellence, can be only as a moral summons. This movement proceeds from the other.²⁹

It is of considerable importance that this movement proceeds from the other. The other is always one step ahead of me and it is further from me to him than it is from him to me. Self and Other are out of step and the distance marked by the face and alterity of the other is unbridgable. Of course, one can take initiatives to reduce the strangeness of the other, but such initiatives are destined to fail.³⁰ It is this alterity, this heteronomy, that disrupts, questions and contests me and, for Levinas, the approach of the face is the most basic mode of responsibility, where responsibility is understood as a response to the imperative addressed in the concrete act of

²⁵ Levinas, *supra* n. 12, at 187.

²⁶ Levinas, *supra* n. 12, at 50.

²⁷ See Critchley, *supra* n. 13, at 5.

²⁸ A. Lingis, *Deathbound Subjectivity* (Bloomington: Indiana University Press, 1989), 135.

²⁹ Levinas, *supra* n. 12, at 196.

³⁰ Lingis, *supra* n. 28, at 135.

facing. The face of the Other contests the freedom of the 'I' and celebrates, simultaneously, the autonomy of the subject.³¹

Levinas' ethics teaches us not to see the face better or to see it in a different way but to "cease identifying the face with the claims of vision".³² The face does not have a visibility. However, although vision surely inhabits the face, this should not distract us because the "face is the single prey that the image-hungry hunter can never catch".³³ The eye always returns empty-handed from the face of the Other. Vision emasculates the child's otherness. The eyes, as the agents of surveillance, appropriate the foreign and the strange, objectifying, reifying and possessing. Levinas doubts whether one can even speak of a 'look' turned toward the face because such a look would register its features, its qualities.³⁴ The best way of encountering the Other is "not even to notice the color of his eyes", for when one observes the colour of the eyes one is no longer in a social relationship with the Other.³⁵ The face of the Other "at each moment destroys and overflows the plastic image it leaves me".³⁶ The Other always eludes me and escapes my grasp of him and it is this enigmatic surplus, this excess, that Levinas names 'face'. Accordingly, the face is never 'seen as such' – as a presence to be represented and appropriated by me as a 'knowing' subject. Vision is the search for adequation and the attempt to grasp the other – at a distance – is the attempt to dominate that other. There is no encounter of presence in the face because the face is experience *par excellence*. The face traumatises and disturbs presence.³⁷

Because the face is not seen as such, it is not a physical form as we commonly understand it, but rather, it designates, for Levinas, the resistance of *man* to his own appearance. In other words, it is present in "its refusal to be contained".³⁸ The face does not appear as such because it is a 'demand' – both a request and authority. Phenomenologically, it cannot be given an exact description. It is not quite a phenomenon because a phenomenon is what appears and appearance is not the mode of being of the face. It is

³¹ See A. Lingis, "Face to Face: A Phenomenological Mediation", *International Philosophical Quarterly* 19/2 (1978).

³² A. Finkielkraut, *The Wisdom of Love* (University of Nebraska Press, 1997), 12.

³³ Finkielkraut, *supra* n. 32, at 12.

³⁴ See P. Davies, "The Face and The Caress", in D.M. Levin, ed., *Modernity and the Hegemony of Vision* (University of California Press, 1993).

³⁵ Levinas, *supra* n. 23, at 85.

³⁶ Levinas, *supra* n. 12, at 51.

³⁷ C. Vasseleu, *Textures of Light. Vision and Touch in Irigaray, Levinas and Merleau-Ponty* (London: Routledge, 1998), 90.

³⁸ Levinas, *supra* n. 12, at 194.

not a question of a subject being faced with an object. Accordingly, the face is not a spectacle but a “voice”.³⁹ The abstractness of the face founds discursivity and not visibility and one hears and speaks to a face.⁴⁰ The child’s voice – imperative – disrupts categorically. The face commands, both inviting and destroying any attempt to destroy it. The face commands and it speaks, obligating me straightaway. The face is best thought of, therefore, as an (ethical) epiphany and for Levinas the epiphany of the other person is

ipso facto my responsibility towards him: seeing the other is already an obligation toward him. A direct optics – without the *mediation* of any idea – can only be accomplished as ethics.⁴¹

The face is neither seen nor touched. To do so would be for the identity of the ‘I’ to envelop the alterity of the object. The face is an open hand in search of recompense but not a thing which comes to hand. To examine the face would be to detract from the enigmatic immediacy of the encounter, to detract from the irreducible means of access to the face. And this access is, for Levinas, *immediately* ethical. In turning to face me, the Other signals me; his face, his expression, his word is not only indicative and informative, but also vocative and imperative. He faces me with his eyes unmasked and exposed, and turns the primary nakedness of the eyes to me; he faces me with a gesture of his hand, grasping nothing.⁴²

The face of the Other is naked before it is artificial or authentic; it is naked before it is interesting or boring, before it seduces or repels, before it is confessional or opaque. The nakedness of the face is not what presents itself to me because I disclose it. The nudity of the face lies in its very turning to face me: “It *is* by itself and not by reference to a system”.⁴³ However, the face is not simply naked because for Levinas the nakedness of the face is “destituteness”. The face is the body’s most vulnerable part. Both transcendent and destitute, the face is so lofty that it escapes me, while shedding its own malleable essence, and so weak that its weakness inhibits me when I gaze into its helpless eyes. Unprotected, defenceless, it lays itself bare, making me ashamed of my cold composure. The face resists me and calls upon me so that I cannot be a neutral by-stander. The face obligates me and takes me beyond egotistical self-interest. Here and now I face another who demands of me not an ‘I think’ or ‘I see’ but ‘Here

³⁹ Levinas, *supra* n. 12, at 67.

⁴⁰ Vasseleu, *supra* n. 37, at 91.

⁴¹ Levinas, *The Temptation of Temptation*, in E. Levinas, *Nine Talmudic Readings* (Bloomington: Indiana University Press, 1990), trans. A. Aronowicz, 30, 47.

⁴² Lingis, *supra* n. 28, at 137.

⁴³ Levinas, *supra* n. 12, at 75.

I am'. It demands that I be there *for him*.⁴⁴ 'Here I stand. I cannot do otherwise'.

The face is verticality and uprightness; it spells a relation of rectitude. It is not in front of me, but above me. To recognise the other's move in facing me is to recognise an appeal addressed to me, which calls upon my resources and first calls upon me to stand forth as 'I'. Recognising the imperative in the face of another is not an abstract and intellectual Kantian respect for the pure form of the law, but an injunction to answer for the destitution of others with one's own bread and, as a hostage, to give one's life in sacrifice. To respond to him, to greet his call and to recognise his voice is to recognise his rights over me, his right to make demands on me and to contest me, his right to demand that I answer for my existence.⁴⁵ It is to recognise a hunger with an insatiable appetite, a hunger which needs feeding. To respond to him is to give selflessly. Recognition is pure naked exposure to the face of the other, a face that *dis-possesses* me, decentres me, and by extension, *dis-poses* me to be an ethical subject-in-process.⁴⁶

2.2. *Difficult freedom: From heteronomy to autonomy*

2.2.1. *Redefining subjectivity*

For Levinas, the other person constitutes the ethical meaning of the self's existence. The surplus of the Other's non-encompassable alterity is the way that ethics disturbs and commands from a height. It is the demand made by the very face of the Other, in a nakedness that pierces the face, which can be objectified. As has been mentioned before, the face of the Other both contests the freedom of the 'I' and celebrates the autonomy of the subject. In the *initial* face-to-face encounter, Levinas does not locate human dignity in personal freedom as spontaneous activity, but rather instead in *passivity*: subjectivity – openness to the other – presents itself as a hostage of responsibility. The approach of the other is an initiative I undergo. I am passive with regard to it. The passivity of being-for-another is only possible in the form of giving the very bread I eat.⁴⁷ One is *not able* to withdraw from this responsibility.⁴⁸ Levinasian responsibility is a bond with an imperative order, a command from a height, which he names 'transcendence', and the locus where this bond is articulated is in the face

⁴⁴ Finkielkraut, *supra* n. 32, at 15.

⁴⁵ Lingis, *supra* n. 28, at 137.

⁴⁶ See A. Lingis, translator's introduction to Emmanuel Levinas' *Otherwise Than Being or Beyond Essence* (Dordrecht: Kluwer Academic Publishers, 1991).

⁴⁷ Levinas, *supra* n. 46, at 72.

⁴⁸ See A. Renault, *The Era of the Individual. A Contribution to the History of Subjectivity* (Princeton University Press, 1997), 165.

of the Other who faces. The imperative I recognise in the face of another is the recognition of, in the face of the Other, an injunction to answer for that Other's destitution and this recognition is effected by the sacrifice of oneself *to* and *for* the Other.⁴⁹ Whereas in Kant, it could be argued, respect for the law is placed above respect for persons, for Levinas the face of the Other singularizes the ethical commandment: it is in each case for the first time that the Other, a particular Other, says to me "Thou shall not kill."

Responsibility is a *pre-cognitive* form of recognition. In other words, recognition is an acknowledgement of an ethical claim or an order and a summons to arise, *to be* and to present oneself in the face of the Other. Recognition is a demand and is, as Lingis notes, a recognition "not of the form but of the expressive force (vocative and imperative) of the Other", of alterity itself.⁵⁰ The responsible subject here is the "ethical subject" and responsibility is the essential primary and determinate structure of subjectivity:

[the] very node of subjectivity is knotted in ethics understood as responsibility.⁵¹

Because Levinas understands subjectivity in ethical terms, subjectivity must not be understood *as for itself* but initially as *for another* and in *Otherwise Than Being or Beyond Essence* he introduces the term "substitution" to characterise this *for another*. What does Levinas mean by the term substitution? Essentially, substitution is a putting oneself in the place of another and for him the *one-for-the-other* is announced in non-reciprocity.⁵² This responsibility of responding to the Other is (as the inordinate responsibility, the infinite responsibility of *being-for-the-other before oneself*) for Levinas the ethical relation and, therefore, the metaphysical relation.⁵³ Although responsibilities can be *responsibilities towards* and *responsibilities for*, it is in the latter sense of responsibilities *for* that Levinas writes about.⁵⁴

But, what exactly does it mean for someone to be *responsible for* the Other? Levinas argues that the *for* of substitution does not place terms in relation to each other. Instead, Levinas makes the bolder claim that my responsibility *for* the Other *is* the *for* of the relationship.⁵⁵ The "knot of

⁴⁹ A. Lingis, "The Elemental Imperative", *Research in Phenomenology* 18 (1988), 3–23.

⁵⁰ Lingis, *supra* n. 46, at xiii.

⁵¹ Levinas, *supra* n. 23, at 95.

⁵² Levinas, *supra* n. 46, at 84.

⁵³ Levinas, *supra* n. 12, at 79.

⁵⁴ E. Levinas and F. Armengaud, "Entretien avec Emmanuel Levinas", *Revue de métaphysique et de morale* 90 (1985), 296, 302.

⁵⁵ Levinas, *supra* n. 46, at 100.

subjectivity” consists in my going towards the Other without concerning myself with his/her movement towards me.⁵⁶ In other words, I take one more step than the Other and this step is only possible if it is, in fact, responsibility. I have always one more response to give. I have to answer for the other’s responsibility. Because of this inequality, the relation is initially a “non-symmetrical” relation.⁵⁷ I am responsible for the Other without waiting for reciprocity, which is his affair. Are reciprocity and symmetry synonymous terms here? Levinas wishes to defend, I think, a claim to the absolute alterity and uniqueness of each human being. In preserving this uniqueness and difference, I respect the Other, for himself, and not only as a vehicle of the Kantian moral law. The point is well made by John Llewelyn that the alterity that Levinas has in mind “is the alterity of the Other *vis-a-vis* me”.⁵⁸

Levinas wants to maintain that the ethical relation must be acknowledged as *asymmetrical* if it is to be ethical. In other words, intersubjectivity is not constituted in the Hegelian mutual recognition of self and other because such a relation is predicated upon a presumed identity of terms. The face-to-face relation is outside any system of terms in reciprocal relation, and accordingly it must also be outside any systematicity analogous to that of Kant’s Third Analogy in the *Critique of Pure Reason*⁵⁹ or its ethical analogue the kingdom of ends. The reader will probably find this last remark one of the more disturbing aspects of Levinas’ thought. He appears to be claiming that there is a non-reciprocity of the ethical relation based on the fundamental asymmetry of the non-totalising self and Other. If this stance is to be accepted, it means that the ethical obligation to be good or just is not even contingent on the Other’s reciprocation. If it were so contingent, on this view, ethics would then be an ontology, a pragmatics or a utilitarianism.

For Levinas, the relation between Self and Other is unsurpassable and it is precisely insofar as this relationship is non-reciprocal that I am subjected to the Other. The subject does not constitute itself. Therefore, since the subject is not autonomous, the self’s relationship to itself necessarily entails its relation to an-other. The return to and of this other is alterity itself, an alterity that violently de-centres the auto-affective subject. Heteronomy is a condition for the possibility of the subject’s autonomy. Subjectivity as responsibility is subjection and the word that Levinas chooses to char-

⁵⁶ Levinas, *supra* n. 46, at 84.

⁵⁷ Levinas, *supra* n. 23, at 98.

⁵⁸ Llewelyn, *supra* n. 20, at 38.

⁵⁹ “Principle of Coexistence, in Accordance with the Law of Reciprocity or Community”, A211/B257–A215/B262.

acterise this subjection is 'hostage'. I am subject in the sense of being held hostage. The Other judges and categorises *me*. In this sense, I can have no Kantian responsibilities to myself (no virtuous duties) because for Levinas this self-responsibility is mediated by my responsibility for the Other's responsibility towards me.⁶⁰ In uttering the words 'Here I Am', I am immediately obligated and responsible for the Other, obedient to the call of the Other's imperative. Responsibility is intrinsic to the response of the Other's call. The act of giving, being-for-another, is an act of taking the bread out of one's own mouth and nourishing the hunger of another with one's own fasting.⁶¹ The ethical 'I' is subject insofar as it kneels before the other, sacrificing its own freedom to the more urgent and primordial call of the other. Our heteronomous response to the human other precedes the autonomy of our own subjective freedom. Levinasian ethics redefines subjectivity as this heteronomous response to the other.

2.2.2. *Sensible subjectivity: Suffering and vulnerability*

For Levinas, sensibility is exposure to alterity and as Lingis makes clear, "the register upon which the ethical imperative makes its impact on subjectivity" is not as a cognitive sensibility, but rather as "sensuality, susceptibility to being affected, vulnerability with regard to pleasure and pain".⁶² The responsible subject is a distressed subject. Responsibility is co-extensive with our sensibility and in our sensibility we are exposed to an exterior being, exposed to the outside and a point of contact beyond our grasp in such a way that we are bound to answer for it. Sensibility is vulnerable contact, exposure to alterity. This exposure to exteriority, to alterity, is located by Levinas in the face of another. In responding to the other whose face speaks to me and demands that I respond I am involved in a discourse which is an ethical act.

In *Useless Suffering*⁶³ Levinas conceives of suffering in interhuman terms, that is, "as meaningful in me, useless in the Other". How can one justify the neighbour's pain? Suffering lies in the inter-human perspective of my responsibility for the other person. It lies in the non-in-difference of one to another, in a responsibility of one for another, without concern for reciprocity. Levinas argues that the most upright relation to the Other, the most profound adventure of subjectivity, is the act of accusing oneself in

⁶⁰ Llewelyn, *supra* n. 20, at 53.

⁶¹ Levinas, *supra* n. 46, at 56.

⁶² Lingis, *supra* n. 46, at xviii.

⁶³ In R. Bernasconi and D. Wood, eds., *The Provocation of Levinas* (London: Routledge, 1985), 156–167.

suffering. This is freedom. Suffering lies in a non-reciprocal responsibility, in my call to help another “gratuitously, in the asymmetry of the relation of *one* to the *other*”.⁶⁴

Suffering is also obsession, persecution and hostage. I am obsessed by the other despite the irreducibility of that other to a theme or calculative scheme. To conceive of obsession as non-reciprocity is to rule out the possibility of there being any suffering in common. Obsession is proximity. Obsession is responsibility.⁶⁵ The self and other are not thematizable in terms of their relation and yet are in the close presence of obsession. There is no time to think that the affection is reciprocal “for he is still obsessed with the very obsession he could exercise over him that obsesses him”.⁶⁶ The other demands of me, assigns me, so that obsession is a responsibility without choice, a silent communicative act. There is no time to think, to plan or to scheme, only to act – to respond – and to give with one’s own bread. His assigning me before I designate him is a modality of obsession.⁶⁷ The subject is exposed to alterity before it can take a stand and this closeness without distance, this immediacy of approach, is proximity. It is a restless inequality.

3. THE PASSAGE FROM ETHICS TO POLITICS

3.1. *From inequality to equality*

Levinas argues that the social relation is first and foremost an ethical relation. The ethical relation is one in which I am related to the face of the Other. Such a relation is one of inequality. Like O’Neill, who takes a constructivist perspective to argue that “children’s fundamental rights are best grounded by embedding them in a wider account of fundamental obligations”,⁶⁸ I want to argue that children’s fundamental rights are best grounded by embedding them in the Levinasian notion of responsibility outlined previously. Many of you will no doubt find such a notion – responsibility as subjection and hostage – extreme and radical. However attractive or seductive Levinas’ descriptions of the face-to-face encounter maybe, what practical utility does a notion of responsibility premised upon

⁶⁴ Levinas, *supra* n. 63, at 165.

⁶⁵ E. Levinas, “Language and Proximity”, in *Collected Philosophical Papers* (Dordrecht: Martinus Nijhoff, 1987), trans. A. Lingis, 123.

⁶⁶ Levinas, *supra* n. 46, at 84.

⁶⁷ Levinas, *supra* n. 46, at 87.

⁶⁸ O. O’Neill, “Children’s Rights and Children’s Lives”, in Alston et al., *supra* n. 2, at 24.

inequality have? How is this responsibility translated into the politico-legal sphere? What is the passage from ethics, “understood as a responsible, non-totalising relation with the Other, to politics, conceived as a relation to the third party, to all the others, to the plurality of beings that make up the community”,⁶⁹ in Levinas’ work?

Ethics for Levinas, if you recall, is critique and questioning and, accordingly, the passage from inequality (ethics) to equality (politics) in his work can be viewed as “synonymous with the move from responsibility to questioning, from the proximity of the one-for-the-other to a relation with all the others whereby I feel myself to be an other like the others and where the question of justice can be raised”.⁷⁰ Politics therefore is interpreted as a space or forum for questioning, a questioning which is anchored squarely in the priority of ethical responsibility. However, the assertion of ethics as ‘first philosophy’ does not result in, as Critchley argues, an a-politicism or in a complacent political quietism or apathy. On the contrary, in Levinas’ major works, the ethical returns to the political. In other words, responsibility leads back to questioning and to “the interrogative demand for a just polity”.⁷¹ Politics begins as ethics, as the possibility of sacrifice of oneself to and for the other. It is a politics that celebrates ethical difference, where community takes on meaning in difference without appropriating the reductionist strategy of assimilating this difference in an identity of terms.

The initial impasse between self and other translates into a political space that is an open, plural network of non-totalisable ethical relations. For Levinas, my relationship with the other as neighbour gives meaning to my relations with all others: “the contemporaneousness of the multiple is tied with the diachrony of the two”.⁷² Justice is only justice where the distinction between the close and the far off collapses and in which, simultaneously, there also remains the impossibility of passing the closest. In other words, inequality founds equality and the forgetting of self moves justice. Only in this way is plurality and multiplicity enacted. The ethical relation is not a self-sufficient, private diachronic affair. The discourse between self and other does not result in complicity. On the contrary, everything that takes place ‘between us’ is of concern to everyone else and the

⁶⁹ Critchley, *supra* n. 13, at 220. I draw heavily on Critchley’s interpretation of this passage from ethics to politics in Levinas’ work.

⁷⁰ Critchley, *supra* n. 13, at 220.

⁷¹ Critchley, *supra* n. 13, at 223.

⁷² Levinas, *supra* n. 46, at 159.

face that looks at places itself in the full light of the public order, even if I draw back from it to seek with the interlocutor the complicity of a private relation and a clandestinity.⁷³

The third party looks at me in the eyes of the Other. In other words, the epiphany of the face qua face ‘opens humanity’. It is the third party who ensures that the ethical relation stays within the political arena, within the public realm. Because the third party looks at me in the eyes of the Other, my ethical obligations to that Other open onto wider questions of justice for others.⁷⁴ Accordingly, ethics is already political, the private already public, and this move allows Levinas to introduce the notion of equality. “The poor one, the stranger” is present as an equal and within this poverty the stranger’s equality consists in referring to the third party, present at the encounter, “whom in the midst of his destitution the Other already serves”.⁷⁵ There are two aspects, therefore, to this relation. Firstly, my ethical relation to the Other is an unequal, asymmetrical relation but, and secondly, it also simultaneously opens onto a relation to the third party and to all others, that is, to “a symmetrical community of equals”.⁷⁶ This community is a commonality among equals founded upon an inequality of self and other in the ethical relation. Levinas coins this double community “human fraternity” or “monotheism”.⁷⁷

3.2. *The rights of man and the rights of the child*

Their attitude was children should be seen and not heard.⁷⁸

How far can this abstract discussion be applied to the idea of children’s rights and human rights more broadly?⁷⁹ That children have rights has been argued about for well over a century from a number of diverse and competing perspectives.⁸⁰ No one can doubt or deny that their lives are essentially a public concern which can be met by fostering and securing positive rights. The rights of the child, as recognised in the Convention on

⁷³ Levinas, *supra* n. 12, at 212.

⁷⁴ Critchley, *supra* n. 13, at 226.

⁷⁵ Levinas, *supra* n. 12, at 213.

⁷⁶ Critchley, *supra* n. 13, at 226.

⁷⁷ Levinas, *supra* n. 12, at 214.

⁷⁸ From Jane’s account of sexual abuse in J. Renvoize, *Innocence Destroyed. A Study of Child Sexual Abuse* (London: Routledge, 1993), 129.

⁷⁹ For a discussion and application of Levinas’s work on human rights see M. Diamantides, “The Violence of Irresponsibility; Engimas of Medical Ethics”, *New Formations* 35 (1998).

⁸⁰ See M.D.A. Freeman, “Rights, Ideology and Children”, in M. Freeman and P. Veerman, eds., *The Ideologies of Children’s Rights* (The Hague: Martinus Nijhoff, 1992).

the Rights of the Child adopted on November 20, 1989 by the UN General Assembly and which entered into force on September 2, 1990, are ‘human rights’.⁸¹ Those rights are universal. The rights claimed under the rubric title of the ‘rights of man’ are based on an original sense of right, or the sense of an original right.⁸² The Nazi holocaust and the ethnic cleansing regimes in Serbia and Rwanda have taught us rightly that these rights are more legitimate than any legislation, more just than any justification and are, however complex their legal application, “the measure of all law and, no doubt, of its ethics”.⁸³

These rights are *a priori*, prior to all entitlement, to all cultural traditions and values, and prior to all jurisprudence. These rights are irrevocable and inalienable. They express, independently of any conferral, the alterity or absolute of every person, rights that violently suspend all reference and abstract every person from their embeddedness in complex, plural social structures. The suspension of all reference is, as Diamantides points out, “a necessary price” for expressing the alterity or absoluteness of each person.⁸⁴ These rights mark the absolute identity of the non-substitutable, incomparable and unique person. These rights manifest the uniqueness of the person, despite his/her “subsumption under the category of the human species, or because of that subsumption”.⁸⁵ The possibility of actually enjoying these rights is not immediately given. And Levinas asks, but what of the rights of the other ‘man’? Do not the rights of ‘man’ also run the risk of being infringed upon by the rights of the other ‘man’? What of the rights of the other who faces me? What of the rights of the ‘child’ who faces me and the potential clash of interests between the rights of ‘man’ and the rights of the ‘child’? Are these not the primordial rights that found these broader appeals to the rights of man? Does not the defence of the rights of man correspond to a vocation ‘outside’ the state, to an extra-territoriality? Is not the capacity to guarantee that extra-territoriality the defining characteristic of the liberal state and the modality by which the conjunction of politics (equality) and ethics (inequality) is possible? In the ethical relation of the face-to-face encounter, Levinas seeks to provide a passage to this guarantee.

⁸¹ See A. Lopatka, “The Rights of the Child Are Universal: The Perspective of the UN Convention on the Rights of the Child”, in Freeman and Veerman, *supra* n. 78, 47–52.

⁸² E. Levinas, *The Rights of Man and the Rights of the Other*, in Levinas, *supra* n. 1, 116–125.

⁸³ Levinas, *supra* n. 81, at 116.

⁸⁴ *Supra* n. 79, at 148.

⁸⁵ Levinas, *supra* n. 81, at 117.

Picture my face, the face of a seven year old child sexually abused by a close male friend of my parents. Picture my face as I perform oral sex on him and then he buggers me, tearing me apart. Taste his saliva. Picture this violent act. Picture my face as you near death-drown in the screaming appeal of these words, imploring you. Picture me, 'this' child, not 'that' child, not just any child, hanging with severed senses,

somehow,

somewhere,

sometime,

dislocated.

Picture slashed arms and wrists. Picture my vulnerability, titilating isn't it? Picture long-term abusive adult relationships. Picture marriage failure and emotional torture. Are your eyes listening? Do you hear my voice? How do 'you' respond to this encounter? How do YOU respond to me, a stranger? So close and yet so far. Neither here, nor there. How do you respond to the proximity of what is most distant? In friendship?

One can respond, I think, by rendering definitions obsolete. Definitions may be broad or narrow.⁸⁶ Definition is thematization, an attempt to rationally 'measure' the extent of child abuse. It is a visible attempt to silence the abused. McGillivray argues that "definitions of child abuse . . . vary to the point that the term 'child abuse' has no inherent medical or legal meaning".⁸⁷ But what medical or legal meaning is sought? Medical and legal definitions concentrate on the physical 'act' of abuse, thus rendering the emotional and the mental otiose. But sexual abuse is a "profound experience of helplessness".⁸⁸ However, for me, it was (and is) not so much a sense of helplessness but the experience of a profound sense of 'homelessness', of displacement. What does this homelessness entail? What do we mean by homelessness in the context of sexual abuse? To be homeless, to lack a primal place, does not simply and literally mean having no roof over one's head, no permanently sheltering structure. To be sure, homelessness can be understood legally in spatial or territorial terms, but I want to suggest that its significance lies in its extra-territorial character. In other words, to be homeless is to be in a

⁸⁶ For the advocacy of a 'narrow' concept of abuse, see M.M. Coady and C.A. Coady, "There Ought to Be a Law against It: Reflections on Child Abuse, Morality and Law", in Alston et al., *supra* n. 3.

⁸⁷ A. McGillivray, *Reconstructing Child Abuse: Western Definition and the Non-Western Experience*, *supra* n. 79, at 226.

⁸⁸ Salter, *supra* n. 9, at 215. See also J. Renvoize, *supra* n. 78.

permanent state of disorientation in a complex and confusing world.⁸⁹ This disorientation is the defining characteristic of my sexual abuse. It is this disorientation which is rendered publicly invisible in my face, past, present and future, a disorientation which is also rendered invisible and silenced in medical and legal constructions of abuse. This disorientation is my abuse. What then of the UN Convention of the Rights of the Child? Does the Convention embrace or accommodate this concept of sexual abuse?

The child abuse provisions of the 1989 Convention reflect contemporary Western constructs of abuse, constructs which are premised upon the ideological and ethnocentric baggage of the private-public distinction.⁹⁰ This much seems uncontentious. However, I would argue that the provisions on child abuse in the 1989 Convention render problematic the underlying concept of children's rights. Let me explain briefly. Article 34 of the Convention reads as follows:

State parties undertake to protect the child from all forms of sexual exploitation and abuse. For these purposes, State Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

A number of questions arise. Why are the Article 34 provisions not framed in the 'language of rights'? Why are these provisions found within the imposition of various 'protective duties' upon states? Do these duties entail rights? Don't Government policies often do more harm than good? Sexual abuse appears to be defined broadly in Article 34 to include "all forms of sexual exploitation and abuse". Article 34 must be read in the context of Article 19(1) which states that:

State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, *including sexual abuse*, while in the care of parent(s), legal guardian (s) or any other person who has the care of the child.

Article 19 is again phrased in terms of the imposition of various protective duties upon states and is limited to the prevention of abuse of a child in the care of his/her parents, legal guardians or any other person who has care of that child. This provision is broad enough to cover the emotional

⁸⁹ E.S. Casey, *Getting Back into Place. Toward a Renewed Understanding of the Place-World* (Bloomington: Indiana University Press, 1993).

⁹⁰ McGillivray, *supra* n. 87, at 214.

disturbance and trauma that a young child experiences and abuse at the hands of a ‘family friend’ would presumably be within the ambit of “while in the care of parents”. However, why is ‘sexual abuse’ set up as if it were a form of abuse detached or separate from all other forms of physical or mental violence, injury or abuse? Sexual abuse is not simply ‘physical’ sexual abuse. A child can be abused without being physically violated and without his/her knowledge or consent, without being coerced or induced. One can achieve sexual gratification by masturbating in the presence of a sleeping child. Here there is neither physical nor mental abuse, yet clearly there is a form of abuse.

To be sexually abused – to be homeless – is to present the other as absolved from any social intercourse with me and beyond any relationship I might have with them. To be displaced and emotionally and mentally dislocated is to inhabit a place without any habitation. For me, the ‘physical act’ of abuse is less important than the *site or place* of abuse – the family home (not a physical place). My own experience of sexual abuse is an enduring experience of the violation of place. In other words, child abuse is about ‘place’ and not about ‘act’. Article 20(1) of the 1989 Convention entitles a child to special state protection and assistance where that child has been “temporarily or permanently deprived of his her family environment”. Such a provision, however, is restricted to ‘physical’ deprivation from the family environment. The word ‘environment’ is construed in physical terms, as bricks and mortar, four walls and a roof . . . a house! But does a house necessarily entail a home? Does rooflessness entail homelessness? For me, the sense of helplessness and disorientation that I feel extends beyond these concrete confines, beyond the geometric fixation of entities. Simply removing me into local authority care, to a ‘safe house’ or to a ‘children’s home’ would not have resolved my sense of despair. Yes, the physical abuse would have ended, but that it is where the ‘real’ abuse begins. As it was, I was not physically removed, but was physically silenced by my parents and the local parish priest. Children lie, after all and this was a small Roman Catholic village in Northern Ireland in 1973. To be sexually abused – to be homeless – is to say that this child – me – still dwells *somewhere*. To be separated is to dwell somewhere, but not here. What rights does this child have? The right to a house or to a home? And when this child faces you, confronts you and appeals to you, how do you respond? Will you welcome this child into your home? Isn’t the possibility of the home opening unto the other as essential to the essence of the home as closed doors and windows?⁹¹ The Other puts demands on the subject’s place from his/her own placeless place. The

⁹¹ Levinas, *supra* note 13, at 173.

Other seeks to interrupt and disturb the security of your occupancy, to intrude into the rigorously defined territorial boundaries of your place. Abuse is not simply the denial of the “genial play of life”.⁹² To understand the significance of your relationship to an abused child is to raise the question of the possibility of a relationship with a real other or alterity and the question of the obligations and responsibilities that this relation imposes.

Levinas’ writings teach us that the otherness of the stranger – of the abused child – and the heteronomic force of the other is the dislocating locus or site of my obligation and responsibility for that Other.⁹³ To address or to respond to the sexually abused child is to enter into a relationship with someone presently excluded and absent from society. It is to respond to a difference and a strangeness that cannot be thematized or objectified, cannot be captured in the banal poetics of legal discourse. How should one structure a response to the voice of the child? The answer lies, I think, in Levinas’ statement that

[t]o be reduced to having recourse to me is the homelessness or strangeness of the neighbour. It is incumbent on me.⁹⁴

As we have already heard, the face is apportioned to the stranger, to the foreigner, to the other whom I have ‘neither conceived nor given birth to’. This stranger has no other place, “is not autochthonous, is uprooted, without a country, not an inhabitant, exposed to the world and the heat of the seasons”.⁹⁵ The stranger’s place is mine and it belongs to me, and no other because responsibility *for* the Other knows no vicarious substitute. Having only me to whom an appeal can be made is part of the tragedy of sexual abuse. The face of a (sexually abused) child – displaced and abandoned – strikes me with an immediacy that I cannot evade.⁹⁶ Levinas then goes on to ask:

Abandoned, but by whom or by what? Is this emptiness of an abandonment, or – equivocation to be demystified ! – merely extension, a medium indifferent to the comings and goings of men, penetrable like nothingness, thinkable before all proximity? Or, despite the

⁹² O’Neill, *supra* n. 68, at 25.

⁹³ See J. Caputo, *Against Ethics. Contributions to a Poetics of Obligation with Constant Reference to Deconstruction* (Bloomington: Indiana University Press, 1993).

⁹⁴ Levinas, *supra* n. 46, at 81.

⁹⁵ Levinas, *supra* n. 46, at 81.

⁹⁶ See M. Purcell, “Homelessness as a Theological Motif: Emmanuel Levinas and the Significance of the Home”, *Scottish Journal of Religious Studies* 15 (1994). I am heavily indebted to Purcell’s theological reading of homelessness in Levinas. My account differs from his in that I bracket out or suspend the theological from my appropriation of Levinasian ethics.

demystification, is it emptiness again, obsessive as in agoraphobia, the trace of a passage or trace of what could not enter? Is it the trace of excession, the excessive, of what could not be contained, of the non-content, disproportionate to all measure and capacity, the trace of the infinite signifying diachronically exactly through these ambiguities.⁹⁷

Is sexual abuse simply to be seen as a space – the emptiness of an abandonment – filled by those who are indifferent to human commerce and society, a phenomenon which can be reflected on from a distance without the immediacy of proximity? Then, to be sexually abused would be to have opted out. Is sexual abuse something which understanding cannot grasp, an irrational choice? Then, discourse and speech would be precluded. Or, might sexual abuse indicate an excess, a refusal of confinement by the structures and strictures of society, which puts society and me into question?

The force of sexual abuse, always concrete in a face rather than kept at a distance through *re-presentation*, is its anarchic thrust. The norms and conditions that govern life are revealed as having a foundation aimed at securing and preserving the self and its identity. To be anarchic with regard to society is to place into question a politics that dominates others and secures its own system as a totality, to the exclusion of others. To be excessive with respect to that totality is to place oneself beyond its grasp and comprehension, and suggest that the proper foundation of human society is not a politics, but an ethics founded on a non-allergic relation to alterity. The abandonment of the sexually abused child reveals the “trace of the excession, the excessive, of what could not be contained, of the non-content, disproportionate to all measure and capacity”.⁹⁸ This excess does not simply create an empty space that is pure nothingness. There is a surplus that is the non-indifference I bear towards the concretisation of the face: it issues forth in responsibility. That space is filled up by responsibility and “[t]he surplus over pure nothingness, an infinitesimal difference, is in my non-indifference to the neighbour, where I am obedient as though to an order addressed to me”.⁹⁹

To be obedient is to recognise that the Other is master (authority) and teacher, and that all true speaking is magisterial. To teach is to speak and the relationship between the teacher and the taught requires not only something to be communicated but also a space – the curvature of intersubjective space in which exteriority is effectuated – within which communicative discourse can arise.¹⁰⁰ This “curvature of space” is an attempt to

⁹⁷ Levinas, *supra* n. 46, at 81.

⁹⁸ Levinas, *supra* n. 46, at 81.

⁹⁹ Levinas, *supra* n. 46, at 81.

¹⁰⁰ Levinas, *supra* n. 12, at 291.

bring into proximity that which must remain essentially strange and separate. For what the teacher teaches is beyond the pupil and unknown. The distance between the teacher and the pupil is not that between pupil and teacher, and it is this asymmetry, this irreversibility, this isomorphism, which Levinas thinks points to the abyss between self and Other. As absolutely other and exterior with respect to me, the (abused) child as Other is teacher, and as teacher any relationship with him is a transcendent relation, and thus metaphysical. The (abused) child teaches an ethics which contests my own position, questions my spontaneity and autonomy as an 'I' and renders me powerless, hostage, not because he is more powerful but because my power is brought to an end. It is this contestation of the power of the self which Levinas says is ethics as first philosophy.

Access to this morality is language: "The calling in question of the I, co-extensive with the manifestation of the Other, we call language".¹⁰¹ Language is contact across an abyss, across distance, across a void. Language is a relation with the "non-touchable". Language is primordial dispossession, the first gift/donation. The other person speaks to me, and through his word an impossible relationship is established, impossible because the other person is irreducible to a term of that relation. The word which addresses me is the presence of the other person, who is always excessive with respect to me, but it is a word from which the other person has already absolved himself for he is excessive of what he says to me. The word with which I respond then becomes interpellation and invocation. Not a discourse between equals, but a discourse of summons and response, a discourse between unequals.

On this account, the significance of sexual abuse is that it reveals the homelessness of our own sojourn and the poverty of our own subjectivity. In refusing the summons to respond and to be responsible, we reveal our own dwelling in the world as linked to the maintenance of the safety and security of the self, rather than to the warmth, welcome and openness of the other person. The sheer presence of the stranger, absent and excluded from society, contests the happy possession of the world which politics secures for us, and provides a salutary reminder of the ethical basis of human existence. The stranger disturbs any possibility of being at home with oneself and this violent disturbance, this indiscretion, is ethical. To be human is to respond to an address that is first made to me, an address that although in the form of a destitute demand, is, in reality, the constitution of my ethical subjectivity. It is this overturning of the relationship between

¹⁰¹ Levinas, *supra* n. 12, at 171.

self and the other that signifies the ethical nature of our response to sexual abuse.

The necessary prerequisite for elaborating children's rights, and the rights of sexually abused children, is to listen to the voice of the child and not attempt to emasculate that voice within a systematic set of rules and concepts. To what extent does Article 12 of the 1989 Convention build a sense of community in enfranchising those without a voice by listening to them?¹⁰² Although Article 12(2) provides a counterweight to the provisions of Article 3 in allowing the child a voice to be heard in any judicial and administrative proceedings affecting the child, no attempt has been made to think through what listening to that voice entails. No attempt has been made to analyse the ethical dimensions of that listening.

The child's face speaks and commands us not to be indifferent to the non-indifference of our relation. To respond is to listen, but it is a listening which is no longer at the subject's discretion, at the discretion of the 'self'. There is no trope for the subject's comfortable relation to exteriority, to the other, a relation where the tympanum regulates the subject's openness to the other, "monitors and controls, so to speak, the amount of otherness that it lets in."¹⁰³ Such a trope shelters the subject and muffles and silences the child's silence. Too often abused children seeking help are silenced. If we listen to the child's voice, listening becomes a radical ex-positing and a displacement of the subject and here the other is no longer an outside but instead marks the "impossibility of closure, of covering one's ears".¹⁰⁴ The face speaks, but it speaks a language without words. Silence speaks and although it sounds like nothing, in it the whole of our existence resonates. A child's silence is not mute. Silence is not muteness nor dumbness, neither a negation nor a privation. Silence is the possibility of not speaking, of not being heard. Silence is still speech, but nobody is attuned to it. Nobody listens. Silence is a communicating and sharing and through silence one is most attuned to the Other, closest to it and genuinely open onto the alterity of the Other. In order to hear something we must first give it our silence.¹⁰⁵ Listening needs to be open

¹⁰² McGillivray, *supra* n. 87, at 170. See also G.B. Melton and S.P. Limber, "What Children's Rights Mean to Children: Children's Own Views" in M. Freeman and P. Veerman, *supra* n. 79, at 170.

¹⁰³ K. Ziarek, *Inflected Language. Toward a Hermeneutics of Nearness. Heidegger, Levinas, Stevens, Celan* (New York: SUNY, 1994), 204.

¹⁰⁴ Ziarek, *supra* n. 103, at 205.

¹⁰⁵ M. Levin, *The Listening Self. Personal Growth, Social Change and the Closure of Metaphysics* (London: Routledge, 1989), 232.

and receptive to the sexually abused child's silent call.¹⁰⁶ It is such a listening that needs to be cultivated. In assigning me, in summoning me, responsibility is antecedent to freedom. Here, responsibility is the passive abandonment of self-possession. There can be no speculative utilitarian calculation here for all calculation is ruled out in the initial face-to-face encounter.

4. CODA: EXPIATING BEFORE A LISP OF DISTANT SIGHS . . .

We began and end with faces . . . my face. As you read these words, no doubt you are trying to imagine what I look like, trying to bring an image to mind, to see if I am 'different'. I am not the same as you. *I am different*. You cannot picture my face because it is not given to vision. Even if you could see my face, what would you see? Perhaps, you would prefer not to see it, not to visualise it. That way, you can keep me at a distance. How do you visualise the face of an abused child? What would you look for? In attempting to see my face you fail to listen. My face does not 'touch' you. It is one face among a myriad of strange faces. When you cannot see it, 'you' take refuge in the cold anonymity of these words and so abdicate any responsibility for 'this' face. This anonymity shelters you from having to make any decisions, from having to take an ethical stance, from being responsible. In picturing and not picturing my face, you control the amount of strangeness you let in. But I will always be a stranger to you, even in friendship. Even when you are confronted with the image of an abused child, you distance yourself from it, thematize and objectify it.

The relation with the Other is radically asymmetrical. It is an obsessive relationship. What or who *is* Levinas's Other and can this question even be asked?¹⁰⁷ Levinas works with a number of apparently contradictory senses of otherness including, for example, the other human being taken as universal, the concrete presence of some other person, some pre-reflexive, radically passive level of my own subjectivity, the ideas of the Infinite in me, the 'foreigner' and the Face.¹⁰⁸ This polysemy is intentional and must be read as such in Levinas. It allows my self (the self of the author) to be presented as the reader's Other. My suffering becomes

¹⁰⁶ See D. Ihde, *Listening and Voice: A Phenomenology of Sound* (Athens, Ohio: Ohio University Press, 1976).

¹⁰⁷ See M. Haar, "The Obsession of the Other. Ethics as Traumatization", *Philosophy & Social Criticism* 23/6 (1997), 95.

¹⁰⁸ Haar, *supra* n. 107, at 95.

your (the reader's) boundless concern. It permits me to unfold the radically asymmetrical structures of my own subjectivity – my self as abused child (as Other) and my Self as abused adult. The different senses at play in Levinas's work allow me to articulate the voice of the abused child as adult and to describe this particular child's suffering and my continuing ethical obligation to this child. The Other is all of these senses, and yet none of them. Self and Other co-exist in a disturbing and irreducible state of dislocation. The Other is the homeless, the weak, the poor, the abused child, but the Other is not reducible to these figures. To make this reduction, of the abused child to the Other, is to turn the Other into a being whose place can be assigned,¹⁰⁹ but for Levinas the 'where', the place of the Other, is *nowhere*: the place of the Other is 'u-topic'. The abused child is homeless, dwelling not here, but *somewhere*, marginalised. The figure of the 'poor', the 'weak' or the 'homeless' signify that the Other is marginal, that the Other does not possess the mastery of speech and signification. The Other is dispossessed. The Other is what I myself am not. The other is not the "negation of self in a dialectical relation that can be totalised in a future synthesis".¹¹⁰ This marginality – the Other's poverty and destitution – is intrinsic to Otherness. This marginality can never be thematized, never named. It will always be strange and alien. This is precisely its appeal. The face-to-face encounter between self and other is situated and specific. It is an encounter with a particular Other and not a generalised other. This particularity cannot be named. Levinas's ethics therefore refuses a model of the generalised other whose rights we can automatically know. And yet, there is a paradox here because Levinas's ethics nevertheless generalises the other "*precisely through a discourse on its unknowability*".¹¹¹ This generalisation works by deploying figures of the particular Other which 'erase' that particularity (the weak, the poor, the homeless, the abused child). It is a violent and complex paradox which I have attempted to resolve by reclaiming the *abused child's* (this child's) otherness from its emasculation and reduction to Otherness. The other is not an instance of otherness or of some general category.¹¹²

To respond to my/the abused child's call, to the silence of my/his/her voice, involves an ethical listening. My/his/her words call with an intense

¹⁰⁹ S. Ahmed, *Differences that Matter: Feminist Theory and Postmodernism* (Cambridge: Cambridge University Press, 1998), 60.

¹¹⁰ C. Douzinas and R. Warrington, *Justice miscarried. Ethics, Aesthetics and the Law* (London: Harvester Wheatsheaf, 1994), 163.

¹¹¹ Ahmed, *supra* n. 109, 61.

¹¹² Douzinas and Warrington, *supra* n. 110, 164.

urgency. My/his/her nudity exposes all wants and needs to you. To respond to my/his/her voice, to answer my/his/her greeting, is to recognise my/his/right right to question you. In listening to what I/he/she has to say, you can comprehend 'our' "relevant environment" and "competence" in "our difference".¹¹³ In facing me/him/her, you are exposed to the defencelessness of my/his/her eyes, to my/his/her susceptibility and vulnerability.

Face.

Listen.

Respond.

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¹¹³ A. Lingis, *Foreign Bodies* (London: Routledge, 1994), 49.

