

## The Face of the Good Death: Euthanasia and Levinas

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**Abstract** At various strata of the debate, the sense that arguments surrounding euthanasia are no longer making significant advances has provoked a variety of attempts to find alternative ethical approaches that might break with standard deadlocks. In this essay, we will trail one such move by giving a new account of what the ethical stance of Emmanuel Levinas might contribute towards the twin questions of the ethical justification and legalisation of euthanasia. Interpreting our fundamental relationship with the other in terms of the Biblical injunction ‘Thou shalt not kill’ and refusing to draw any distinction between murder and other forms of killing, Levinas is commonly taken to have offered an ethical stance that is strongly opposed to euthanasia. Without disagreeing with this interpretation, we will offer an account of a further twist on this perspective that renders euthanasia ambiguously the exemplary ethical failure and the supreme culmination of ethics, simultaneously separating this ethical question entirely from legality.

**Keywords** Euthanasia, Levinas, Death, Sacrifice, Ethics

### SOMETHING IS AMISS

The philosopher and medical ethicist Margaret P. Battin has published, adopting the term used in a well-known *New York Times Magazine* article about her life and work, ‘wheelbarrows full’ of book and articles championing the cause of euthanasia and physician-assisted suicide since entering the debate in the early 1980s.<sup>1</sup> It might be somewhat surprising, then, that she began her article on the topic for the 2003 *Oxford Handbook of Practical Ethics* with the statement: ‘Something is amiss with the debate over euthanasia and physician-assisted suicide.’<sup>2</sup>

What makes this claim stand out is that those who support the legalisation of euthanasia, simply using this word from now on, tend to sound quite satisfied with a debate that they seem convinced they are winning or have effectively already won. Organisations in the UK such as the *Campaign for Dignity in Dying* champion statistics such as 82% of the British population supporting a change in the law on assisted dying for terminally ill adults, rising to 86% among the disabled and only falling to 79% among those who identify as religious.<sup>3</sup> The former chairwoman of that of that group, Margaret Branthwaite,

expressed a common sentiment among campaigners when she stated that 'it's only a matter of time before it's legalized.'<sup>4</sup> While rival organisations such as *Care Not Killing* marshal rather different statistics and the UK parliament recently rejected a proposed 'right to die' in England and Wales by a significant enough majority that the issue is unlikely to return for some time, the tone of campaigning in the legalisation movement remains that the march of history is on their side and inexorable. If it is only a matter of time, what, then, is amiss?

According to Battin, the primary problem with the ongoing debate relates to established patterns of discourse in which the issue is posed in for-and-against terms. While adversarial debate is vital for social and ethical issues that are 'just breaking open' – a situation where for-and-against analysis isolates, identifies, catalogues and critiques relevant elements – 'once a debate begins to mature, it becomes time to pursue attempts at resolution'.<sup>5</sup> Rather than an interminable back and forth over already well-churned ground that promises at best to unearth only an occasional new subtlety, the call for the debate to move from infancy to maturity is a push for not only theoretical but practical consensus. The obvious obstruction to such a development is that the euthanasia debate barely merits its definite article, being highly stratified between a public debate where the strong majority support change and specialised debates in legal, political and medical circles where such consensus is lacking. For example, while the British Medical Association shifted its position on assisted dying to neutrality in 2005, it returned to opposition in 2006 and since then the proposal for adopting a neutral stance has been put to the vote and rejected a further five times.

In such a situation, it is not uncommon to hear philosophers promoting their own block of the debate as the keystone around which harmony might be established. As Thomas Nagel wrote in his review of L.W. Sumner's *Assisted Death: A Study in Ethics and Law*, such a book:

provides a superb example of the relevance of philosophy of public policy. The reason is that public policy governing treatment at the end of life is to a great extent shaped by philosophical confusions. It may not be too much to hope that a book such as this will help to rectify the situation.<sup>6</sup>

Indeed, such a hope does not seem entirely unrealistic when sources ranging from the public-facing website *NHS Choices* to *Medical Ethics Today: The BMA's Handbook of Ethics and Law* do indeed engage with the issues and a vocabulary that was developed in the adversarial debates of philosophers. However, without giving too much credence to traditional divisions between analytic and continental philosophy, it is notable that both public and specialised discussions engage with a relatively limited spectrum of thought in terms of its provenance, style and range of references. Although we encounter a certain Kant, we rarely encounter thinkers who might be referred to as post-Hegelian or the currents of thought that take place more broadly within the critical humanities. Indeed, insofar as this lack of engagement is mutual, one might speculate that a wide spectrum of academics outside of the specialist confines of applied and medical ethics do not register the euthanasia debate as politically charged in the same manner as the debates surrounding such issues as abortion or intersexuality, in which we often find interventions from the critical humanities that disrupt established debates in medical ethics.

The underlying inspiration, or at least suspicion, that motivates this article is that insofar as the debate among philosophers has become reified, if not ossified, through standard distinctions, patterns of engagement and a canon of relevant articles and approaches – evidence of which can be readily found in any introductory applied ethics textbook or in the tens of thousands of essays produced annually by undergraduates on formulaic questions such as whether an act utilitarian ought to support active involuntary euthanasia for terminally ill patients or not – to that very extent philosophy loses its chance to play an active mediating role between public and specialised discourse and to prove itself truly relevant to public policy. Some of the most promising moments in the euthanasia debate have been when a philosopher renews the debate through rejecting its accumulated concepts and concerns via adopting an alternative ethical approach in which they simply do not register. A strong example of this would be the distinctive account of virtue ethics offered in Liezl van Zyl's book from 2000 *Death and Compassion*, in which the dominant stream of discussion relating to the ethics of euthanasia is dismissed as rooted in 'monistic' or 'principalist' ethics.<sup>7</sup> Where van Zyl's work becomes even more interesting, however, is in her 2002 article 'Euthanasia, Virtue Ethics and the Law', in which she turns on the basis of her earlier work to the question of whether euthanasia should be legalised in a manner that simply bypasses the common issues that cause discussion to stagnate around apparently irresolvable aporias.<sup>8</sup> Without engaging further with the fascinating work of van Zyl, in this article I would like to test whether

there is a way of pitching the distinctive approach to ethics offered by the philosopher Emmanuel Levinas that might also bypass traditional ways of setting up the distinct questions of euthanasia's ethical status and legalisation.

To briefly step ahead of ourselves, a common structure that we find in almost all strands of the euthanasia debate is that the question of whether euthanasia is ethically permissible is a simpler matter than the question of whether it should be legalised, simply because whether it should be legalised depends on (a) whether it is ethical and (b) some further concern. If euthanasia is ethically impermissible, then most would agree it should not be legalised. If euthanasia is ethically permissible, then there may still be good reasons for it remaining illegal. For example, that once legalised an inevitable 'slippery slope' would mean that people who do not want to die would be pressured into euthanasia. After addressing Levinas in the following two sections, we will see in the closing section how the position we develop on a Levinasian approach to euthanasia breaks with this structure of relating the two questions, possibly offering a route for engaging with the question of legalisation that does not depend on a simple, positive resolution for the question of ethical permissibility.

#### FACING THE DEBATE ANEW

The centennial celebration of the birth of Emmanuel Levinas in 2006 exhibited the continued relevance and influence of his work across the globe, with thirty-two conferences across thirteen countries. For better or worse, Levinas has commonly come to be seen through the lens of one dimension of his work. Stealing Hilary Putnam's appropriation via Isaiah Berlin of a fragment attributed to Archilochus, unlike those thinkers akin to foxes who knows many little things, Levinas is a hedgehog who knows one big thing: that 'one big thing' that his entire philosophy can be seen as unpacking is the claim that 'ethics is first philosophy'.<sup>9</sup>

The priority of *being first* can be taken quite literally here: when we engage in a genetic phenomenological analysis of experience, we discover at the root of the progressive constitution of our intelligible lived world the structure of an ethical relation to another human being rather than an ontological relation to Being. Our existence as isolated, independent self-sufficient egos is not false, but it is derivative. To capture this notion of the originary status of the ethical encounter in terms amenable

to phenomenology, Levinas famously uses the terminology of the other's face. In our analysis that starts from the constituted world as an apparently consistent and meaningful totality, 'we can proceed from the experience of totality back to a situation where totality breaks up, a situation that conditions the totality itself. Such a situation is the gleam of exteriority or of transcendence in the face of the Other.'<sup>10</sup> Nevertheless, this imagery of encountering a face is analogical since the originary relation to the other is not actually given to the phenomenological gaze. The 'ultimate event of being' is 'essentially nocturnal' and cannot be brought to light and comprehended.<sup>11</sup> 'The Other is the principle of phenomena' without being given as a phenomena through 'disclosure' or even 'revelation'.<sup>12</sup>

Despite involving a rather elaborate account of the stages involved in the progressive synthesising and structuring of experience, a post-Kantian assumption that might be disputed by many forms of contemporary realism, I take it that what Levinas offers to ethical thought is a compelling account of motivation. If the world taken as meaningful totality *could* be constituted *without* having arisen from an originary ethical relationship – if the Other were not the principle of all phenomena – then an independent ego might legitimately ask questions such as 'Why does the other concern me? What is Hecuba to me? Am I my brother's keeper?'.<sup>13</sup> In such a universe, Levinas claims that a concern for the other who remains outside-of-me would be incomprehensible. Levinas thus offers an archaeology of a common ethical substructure, applicable as much to virtue ethics as to principalist normative approaches, in which we are at root individual animals driven to persevere in our being by what Spinoza would have called the *conatus essendi*, creatures who then find this disrupted by some further specifically human element – reason, virtue, divine revelation, etc. This further element can supposedly compel us, at times, to act against our own egoist self-preservation and self-interest. Although the surface narrative of *Totality and Infinity* appears to go along with this schema – the enjoyment and nourishment of a dwelling and loving egoist described in Section II having its mode of being radically subverted by the election via the face to a properly human mode of being that is dedicated to the Other in Section III – that apparent chronological narrative is properly an account of rediscovering the Other who is always-already acting as the nocturnal principle of the world as totality. Levinas is flatly sceptical about any other account of ethical motivation where that which demands ethics comes through a higher faculty to an original *conatus*. For example, he denies that something like the 'respect for formal universality', offered by Kant as the cause of our only following maxims that we would legislate for all others, could subdue our rapacious animal drives were it not for this original ethical relation.<sup>14</sup>

Whether one is convinced by Levinas's approach or not, as one of the major, distinctive thinkers of ethics in the Twentieth Century one might expect there to already be plenty of scholarship on Levinas and euthanasia. This expectation would only be heightened when we consider Jacques Derrida's famous claim that 'all of Levinas's thought, from the beginning to the end, was a meditation on death'.<sup>15</sup> However, while Levinas gives us a great deal of material about the role of the ethical relationship in the constitution of experience, it is notoriously difficult to draw concrete ethical judgements from his work. As Dermot Moran forcefully put it at the beginning of the chapter on Levinas in his *Introduction to Phenomenology*:

it must be made clear at the outset that Levinas has nothing to say about ethics as it is traditionally practiced in Western philosophy, since he thinks this tradition has either ignored ethics or made it secondary and provisional. Indeed, he explicitly repudiates the traditional understanding of ethics as a discipline within philosophy which examines different ways of motivating and justifying certain forms of behaviour. He deliberately avoids such topics as the nature of ethical justification, the various forms of ethical theory (e.g. utilitarianism, deontology), or the meta-ethical analysis of ethical discourse.<sup>16</sup>

If Moran is right, it would go without saying that Levinas's ethics also has 'nothing to say' about applied topics such as euthanasia. Simon Critchley offered a slightly less extreme account of how Levinas's work connects with practical ethics by saying that its relation 'to conventional moral philosophy, or even applied ethics, will at best be oblique, and perhaps even critical. [...] [F]or Levinas, the construction of a system, or procedure, for formulating and testing the moral acceptability of certain maxims or judgements [...] is itself derived and distinct from a primordial ethical experience that Levinas's work seeks to describe.'<sup>17</sup> Levinas himself certainly seemed to reject the idea that his ethical work produced concrete ethical judgements, asking: 'Is my discourse deficient in concern with concrete reality? Does all this metaphysics of mine have the ability to solve actual ethical problems? I have no ambition to be a preacher [...] it is not my purpose to moralize or to improve the conduct of our generation [...] I have been speaking about that which stands behind practical morality'.<sup>18</sup> Furthermore, as he famously stated in a conversation later recounted by Derrida: 'You know, one often speaks of ethics to describe what I do, but what really interest me in the end is not ethics, not ethics alone, but the holy, the holiness of the

holy.’<sup>19</sup> His status as a reluctant thinker of ethics can be further shown through the fact that his first tentative articulation of the originary role of ethics comes in the 1951 article ‘Is Ontology Fundamental?’, sixteen years after expressing the problem of being riveted to Being in 1935’s *On Escape*. In the intervening years Levinas made attempts at breaking with the fundamental ontology endemic to philosophy that culminates in the climate of Heideggerian thought almost every approach *except* the ethical relation.

Against the statement above from Moran, the so-called ‘Third Wave’ of Levinas scholarship, which announced itself in Peter Atterton and Matthew Calarco’s introduction to their 2010 edited volume *Radicalizing Levinas*, demands tangible ethical results. Opposed to the supposed ‘navel gazing’ of previous Levinas scholarship, it is a movement concerned with ‘the wider practical and applied dimensions of Levinas’s work’ and focuses primarily on ‘exploring progressive sociopolitical issues’ in the face of Levinas’s characterisation of a ‘world in pieces’.<sup>20</sup> Although the texts in *Radicalizing Levinas* do not pose themselves directly in terms of applied ethics, the topics that emerge in this volume such as animal liberation and environmentalism overlap with the concerns of many applied ethicists. Nevertheless, the euthanasia debate does not figure.

A possible cause of the relative dearth of material on Levinas and euthanasia is that the most obvious reading of Levinas’s ethical position would contribute an answer that is not the one people exploring so-called progressive socio-political issues are likely to welcome. Whatever the value of oppositions such as conservative and progressive when it comes to ethical rather than political issues, Levinas’s actual statements on life and death, rooted as they are in the Hebrew scriptures, frequently lend themselves to defending quite traditional stances. When fellow phenomenologist of ethics Pope John Paul II evoked Levinas’s work as ‘*a testimony for our age*’ in *Crossing the Threshold of Hope*, it was in the context of defending a pro-life stance on the issue of abortion.<sup>21</sup> It is perhaps unsurprising, then, that if Levinas’s name is mentioned in the euthanasia debate at all, it is by those opposing the legalisation of euthanasia. Paul Schotsmans, for example, evokes Levinas in the context of defending a secularized version of the catholic stance on palliative care in which: ‘ultimately there is nothing I can do against this inexorable enemy but answer “here I am” with freely-willed and sincerely concerned proximity, and hold her/his hand tightly, thus lightening her/his death and making it more bearable.’<sup>22</sup> In one of the only English-language Levinasian texts defending the partial legalisation of euthanasia, Torbens Wolfs notes his

article's exceptional status: 'Some authors have explained their vision on euthanasia by reference to the philosophy of Emmanuel Levinas. It is striking that they either reject euthanasia categorically or approve of it only in so-called states of necessity. It seems that only opponents of euthanasia appeal to the philosophy of Levinas.'<sup>23</sup>

That Levinas is quite correctly – although we will enact a small twist on this point in the next section – understood as a thinker whose account of ethics, if it has anything to say about such issues, would be opposed to euthanasia, derives from the manner in which the commandment 'Thou shalt not kill' plays an elevated role in his philosophy. When Levinas comes to flesh out his notion of the face, he states directly that: 'The first word of the face is the "Thou shalt not Kill." It is an order.'<sup>24</sup> Indeed, the 'face is that possibility of murder, that powerlessness of being and that authority that commands me: "Thou shalt not kill."<sup>25</sup> This is not simply a negative prohibition for Levinas since we kill far more often through inaction than action, meaning that 'Thou shalt not kill' is equivalent to 'Thou shalt cause thy neighbour to live' – not a prohibition to respect but an unending labour of care.<sup>26</sup>

The easiest way to avoid such a blanket rule against killing is to clarify that the biblical injunction against *ratsakh* is more accurately rendered 'Thou shalt not murder'. Thus, just as killing in war or when carrying out a legal sentence of execution is not *ratsakh* in the Hebrew Scripture, if euthanasia is agreed to constitute something other than murder then the injunction encountered in the other's face would not forbid it. However, while this is an option for many divine command theorists who hold to the fundamental status of this commandment, it is not an option for Levinas. Although this precise formula arises in the context of killing someone by accident, Levinas is clear throughout his work that 'there would be only one race of murderers'.<sup>27</sup> The distinction between the race of murderers and the race of manslayers only occurs to us because: 'Our conscience is not yet wholly conscience. It is a twilight. The transition from the non-intentional to the intentional is noticeable. We are not awake enough.'<sup>28</sup>

I have long found this to be among the most striking phrases in the history of ethical thought. If there is only one race of murderers, then the distinctions that we have developed through engaging in back-and-forth debate – all of the sophisticated issues we tutor undergraduates in – would be the product of a half-sleep. Indeed, with each additional nuance, the twilight we produce around ethical debates becomes murkier. Perhaps this explains why Levinas had little interest in supporting his account of the



primordial ethical experience with a particular account of ethical system building. When we wake up to the ethical demand, there will be no excuses or nuances of the kind ethical systems are built to recognise. To awaken is to see things in black and white rather than shades of grey. Yet, far from this awakening resolving into a strict distinction between saints and sinners, the consequence is the overwhelming guiltiness testified to in one of Levinas's most frequently quoted literary references, Zosima's claim from *The Brothers Karamazov* that: 'Each of us is guilty before everyone and for everything, and I more than all the others.'<sup>29</sup> In less hyperbolic terms, every person in the first world fails the commandment 'Thou shalt cause thy neighbour to live' daily by enjoying the rewards of the economy. We are all of the race of murderers in a world where: 'Every death is a murder, is premature, and there is responsibility of the survivor.'<sup>30</sup> Nevertheless, according to Levinas what one cannot do on the basis of this is reason like Macbeth that we are so stepped in blood, and furthermore so inevitably stepped in blood, that we may as well commit one more atrocity.

#### THE ULTIMATE SACRIFICE

The primordial ethical experience that Levinas describes as opening the world of phenomena does not simply play out in our world. Nobody directly feels infinite ethical election and nobody does everything they could to cause their neighbour to live. Nobody – to use another of Levinas's favourite references – gives the other the bread from out of their own mouth, or at least not all of it. Indeed, insofar as anyone truly and fully did give the other the bread from out of their own mouth, they would soon not be around to do so further. Yet this insatiable and excessive demand is used to explain moments ranging from the occasions a person actual does reject the *conatus* to die for another (Levinas frequently refers to the Franciscan friar Maximilian Maria Kolbe who volunteered to die in place of a stranger at Auschwitz) to the moment we take a second to hold a door open for a stranger. Above all, our underlying ethical election explains the very existence of a guilt that we become attached to, and it is in this context that we will address euthanasia below.

It has already been mentioned that Torben Wolfs offers one of the only attempts to defend the Levinasian legalisation of euthanasia in particular circumstances. According to Wolfs: 'Suffering [...] is inhuman, and this is to be understood literally: it depersonalises. The patient is no longer who he used to be. It is as if the patient himself does not live, but that 'something' has taken over, something

anonymous: 'it lives'.<sup>31</sup> Wolfs is not saying that *ratsakh* does not cover all acts of killing humans – as some divine command theorists claim killing in war is not *ratsakh* – rather he accepts that all killing of humans – including all letting die of humans – is murder. However, in extreme suffering Wolfs claims one can cease to be human. This approach can be found in traditional euthanasia debates, for example in the work of James Rachels for whom it is morally indifferent if a creature stops biologically *being alive*, what is ethically unacceptable is killing someone who *has a life*.<sup>32</sup> For Wolfs it is wrong to murder a human being, but it is not necessarily wrong to put an end to a depersonalised 'it lives'.

Although this argument makes sense in the context of a hospital ward, it strikes me as untenable for Levinas. Surely the most depersonalised, suffering figure we find in the work of post-holocaust writers such as Levinas is the *Muselmann* in a concentration camp? As described by Giorgio Agamben, 'Nothing "natural" or "common," however, is left in him; nothing animal or instinctual remains in his life. All his instincts are cancelled along with his reason. Antelme tells us that the camp inhabitant was no longer capable of distinguishing between pangs of cold and the ferocity of the SS.'<sup>33</sup> Although Levinas bases his phenomenological account of responsibility explicitly on the *responsiveness* of the other – the expressiveness of the face and the absolute loss that occurs when the face ceases to respond and becomes a death mask – he cannot allow that in extreme suffering death would already effectively have occurred during biological life without absolving those who put the body of the *Muselmann* out of its misery. Levinas will in fact go out of his way to insist on the possibility of shreds of light in even the most depersonalized spaces. For example, Levinas refers to the account of the gulags in Vasily Grossman's *Life and Fate* as offering 'a complete spectacle of desolation and dehumanization. The book reflects absolute despair, and I see no horizon, no salvation for the human race', yet even here in 'the decay of human relations' he holds that 'goodness persists' albeit as a goodness that, in Ikonnikov's words, 'is beautiful and powerless, like the dew.'<sup>34</sup> This powerless beauty expressed even in a situation of absolute despair suggests Levinas is more likely to follow Schotsmans statement above about staying with the dying, holding their hand tightly in freely-willed and sincerely concerned proximity. So, is there an alternative way of accounting for euthanasia using Levinasian resources?

It is rarely sufficiently appreciated that Levinas's philosophy is not simply selfless. Although infinite ethical responsibility involves immense guilt as we recognise ourselves as murders, we are nevertheless deeply attached to this growing guilt and the mode of being beyond *mere* being that we attain as

creatures subject to such guilt – that is, as entities elected to properly human status. Election as ‘total altruism’ empties ‘the I of its imperialism and egoism’ in an engagement that is ‘happy’ – albeit with ‘an austere and noncomplacent happiness that lies in the nobility of an election that does not know its own happiness’.<sup>35</sup> Although we need bread and would enjoy it, this finite need and its satisfaction is as nothing compared to the desire that only grows in giving bread. In platitudinous terms, it is better to give than to receive. Put differently, although we might appear to be engaged in an act of giving when we serve the other, it is the other who gives us the greater gift. The other elevates us from the carefree life of an egoistic animal following the *conatus* and partaking in finite enjoyments to being an upright human who stands in relation to the infinity of the good beyond Being. Although in the hyperbolic terms of Levinas’s description of ethical election we are compelled by a pure desire to care *for the other*, the commitment to ‘cause thy neighbour to live’ is driven by terror at what would happen to us should we lose them. If the other ceases to be, we will lose ethical election and return to the carefree life of animal enjoyment that, although it might sound superficially attractive, can only be a horrifying prospect to a human who has nurtured their desire for the other:

I did not know I was so rich, but I don’t have the right to keep anything anymore. Is the Desire for Others appetite or generosity? The Desirable does not satisfy my Desire, it hollows me, nourishing me somehow with new hungers. Desire turns out to be bounty. [...] As if the compassion [...] were a hunger [...] nourished beyond all saturation, by increasing that hunger, infinitely.<sup>36</sup>

It is beyond the scope of this article to give a full account of the relation between enjoyment, desire, responsiveness, responsibility and death at stake in Levinas’s texts.<sup>37</sup> One simple way of characterising our relation to the other, at least before Levinas produces the concept of the trace, is that they are the only free element in our existence. Every other entity we encounter is, ultimately, simply a measurable portion of matter that obeys the deterministic laws of physics. It is only when I engage with the other in a face-to-face relationship through language that I encounter responsiveness rather than reaction. Although some scientific worldviews might deny the above claim, seeing humans as only very complicated machines, Levinas is likely to respond that insofar as we view another human in these terms we are not engaging with them in a face-to-face relationship. The death of the other can thus be seen as a transfer from a universe in which responsiveness between free beings exists to a cage of

absolute causal determinism: 'Death is the disappearance in beings of those expressive movements that are always responses. Death will touch, above all, that autonomy or that expressiveness of movement that can go to the point of masking someone within his face. Death is the no-response. Those movements both hide and inform the vegetative movements.'<sup>38</sup> In another vocabulary, there is no significant sense of time in a universe of causal necessity – the future is simply the outcome of the present – it is only the other who brings the possibility of a future.

It is at this point, where keeping the other alive as a locus of responsiveness is as much a matter of protecting my own human existence from annihilation as that of the other, that euthanasia reveals itself to entail the most Levinasian of anti-Levinasian twists. Although it seemed that we would do anything for the other *except* the act of euthanasia, we might begin to worry that the reason we would not do this is because it would impoverish us rather than them. What if the fury to keep the other alive, even when the other states they do not wish to remain alive, stems from horror at the prospect of living-on without them? Do we not, then, in killing or in simply letting the singular other die, enact the ultimate personal sacrifice: willing returning to a mode of being that is properly unliveable for the sake of obeying the other's demand? Euthanasia would be the end of ethics – the end of the possibility of ethical living, of a life worthy of living – for the sake of one last service to the other. It seems then to be both the worst and best of acts – we cut ourselves off from the good beyond being, that relationship to infinity that constitutes the holy dimension of being human and that Levinas claimed to be his real interest rather than ethics, in favour of helping a concrete other. While Levinas will claim that we only relate to the divine Other through serving a human other in their simple mortal needs, here we choose the human other at the expense of the divine Other. While all other ethical acts implicitly serve our own interests, here we have an act that is utterly opposed to our own interests – to both our physical needs and our metaphysical desire. To help the other die can therefore be seen as the ultimate sacrifice both in terms of being the highest sacrifice and as last sacrifice. Although everything in Levinas's work suggests it would be the highest scandal, perhaps it is also the only death that is not scandalous.

The above is certainly not the only way to approach euthanasia on the basis of Levinas's work. Indeed, an alternative way of approaching the issue might seem to reject the above. If we consider the act of euthanasia from the perspective of the one who asks to die rather than the one asked to help, we encounter a quite different set of issues relating to Levinas's pre-ethical work on the impossibility of

suicide. Indeed, this is the approach largely taken by A. T. Nuyen in 'Levinas and the Euthanasia Debate', who only considers euthanasia from the perspective of the one asked to assist in the act very briefly.<sup>39</sup> Although Levinas's aim in these texts was to reject the romanticised Heideggerian image of the existential hero who seizes death resolutely – a figure we are more likely to find choosing death rather than divulging the secrets of the Resistance in Sartre or Camus than begging for an end to their suffering in a hospital ward – the claim that suicide is 'a contradictory concept' frustrates any Levinasian attempt to approach or justify euthanasia from a first-person perspective. 'My mastery, my virility, my heroism as a subject can be neither virility nor heroism in relation to death' and in a world where the 'whole acuity of suffering lies in this impossibility of retreat' that limitation testifies against those discourses on euthanasia that pose the issue in terms of *autonomy, taking control or dying on one's own terms*.<sup>40</sup> The very intelligibility of euthanasia for Levinas would depend on death being conceived as release from Being, as a return to nothingness, yet against this Levinas suggests death to be a mystery on the basis of the Bergsonian argument that nothingness is a modification of being:

*Hamlet* is precisely a lengthy testimony to this impossibility of assuming death. Nothingness is impossible. It is nothingness that would have left humankind the possibility of assuming death and snatching a supreme mastery from out of the servitude of existence. "To be or not to be" is a sudden awareness of this impossibility of annihilating oneself.<sup>41</sup>

Does the impossibility of annihilating oneself, with help or not, impose consequences on the one who is asked to help? It is unclear that it does. That the Other might be deceived in their belief that they can escape Being is no obvious reason for refusing to assist them, since my obligation is not limited to carrying out those acts I endorse as rational. Furthermore, to assume that the whole mechanism of desiring to escape Being and inevitably failing to do so would apply to the Other would be to assume that the Other is existentially the same as me, which Levinas strongly rejects: the Other is 'absolutely foreign to me – refractory to every typology, to every genus, to every characterology, to every classification.'<sup>42</sup>

## ETHICS AND LEGALITY

What then are the consequences of the line of thought expressed in the previous section for the euthanasia debate? What is most notable is that questions of ethics and legality are completely severed in Levinas's approach. That is to say, to address the legalisation of voluntary active euthanasia we will certainly not first ask 'Is voluntary active euthanasia ethical?' and then, if it passes this test, ask the further question of whether there are any additional factors that mean we ought to nevertheless maintain its illegality.

We can see why this cannot work in a Levinasian context by considering the broader category of murder, which we have argued euthanasia always remains for Levinas and that we have seen to be equally the demand that we cause the other to live. One clearly cannot form a law in relation to such an account of murder, an account that states there is only one race of murders and that this race encompasses everyone insofar as we participate in the unfairly distributed products of the global economy. Putting the entire population of a country in jail for murder as they have failed to cause the other in the Third World to live might have a beautiful poetic truth, yet it serves little practical purpose and might well be taken as a *reductio ad absurdum* of Levinas's position. That it is not such a *reductio* is because he never suggests a direct connection between these forms of responsibility. While Levinas declares that those who draw an ethical distinction between manslaughter and murder or between negligence of the starving other and their violent annihilation are not awake enough, this does not mean that such distinctions are irrelevant in a court of law. Levinas has no interest in forgiving and forgetting the deeds of concentration camp guards or stating equal legal culpability for the one in the gas chamber and the one who locked the door. This is just one aspect of the distinction between the incalculable ethical dimension of our primordial existence and calculable political reality. This lack of a direct relation is not, however, a claim that there is no relation. The ethical conditions legal responsibility and explains its possibility: the metaphysical guilt that accounts for the very fact that we are not living in a world without law or with only a Hobbesian law based on fear of violence.

Where ethical justification was a precondition for legal justification, here ethical accusation is a precondition for legal accusation. Nevertheless, freed of a direct correlation between what is ethical and what can be legal, the basis for legislation becomes entirely practical. Though ethics does not distinguish between murder and manslaughter, the law is right to do so and the legislation depends more on what

works than what is right. Indeed, what is right is not merely unattainable but undesirable if imposed by law – as in the case of a country with its whole population imprisoned.

Although the above was our primary target, it is worth noting that a second consequence of the above way of viewing euthanasia is that, even if it was to become legalised or tolerated, in a Levinasian perspective it cannot ever become routine or professionalised. If someone carrying out euthanasia is not merely committing murder but being asked to abandon a distinctly human mode of being and cut themselves off from the good beyond Being, then this act is final and unique. If every death is experienced simply an absolute scandal but an apocalypse – the end of the world – then the repeated enactment of such a task can never become part of a job description. A third consequence would be that – unlike the Levinasian justification of euthanasia found in Wolfs – there seems to be little basis for such distinctions in the debate such as whether the other is terminally ill and in pain or neither of these things, or whether we are killing them or letting them die. Although these may be practical issues for legislators to consider in terms of what works, as they do with where to draw the boundaries between self-defence, manslaughter and murder, in ethics drawing such lines is simply evidence of remaining in a state of half-sleep.

In closing, let us clarify that it was never the aim of this essay to convert those engaging in the euthanasia debate to Levinasian ethics rather than some purportedly opposed ethical theory such as deontology or utilitarianism. The purpose of engaging in a study such as the above is to see that some of the deeper structures that ethical theories are formulaically plugged into – such as the assumption that whether euthanasia should be legalised is a matter of whether it is ethically permissible plus some further practical concerns – can be shaken by seeing that they are unintelligible in certain other ethical theories. In using an alternative approach to ethics to shake ourselves out of such common patterns of thought, we need not necessarily be committed to the truth of that theory or remain bound to it afterwards. The assumption that there is a set way of going about the interrogation of a dilemma in applied ethics, a method that we can run through with one ethical theory and then run through with another before tabulating the differing answers they give, produces a field of expertise rather than provoking philosophy. If philosophy is to play a role mediating between public and specialised debates, at the very least there is cause to hope that it will be through philosophers interrogating the deep strata of the debate rather than simply sketching and clarifying confused concepts on its surface.

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<sup>1</sup> Robin Marantz Heing, 'A Life-or-Death Situation', *New York Times Magazine*, July 17 2013, available online at <http://www.nytimes.com/2013/07/21/magazine/a-life-or-death-situation.html>

<sup>2</sup> Margaret P. Battin, 'Euthanasia and Physician-Assisted Suicide', in Hugh LaFollette (ed), *Oxford Handbook of Practical Ethics*, Oxford University Press, Oxford 2003, p673.

<sup>3</sup> Campaign for Dignity in Dying, *Assisted Dying: Setting the Record Straight*, August 2015, available online at [http://www.dignityindying.org.uk/wp-content/uploads/2015/08/DiD\\_MythBuster\\_Aug2015\\_A5\\_12pp\\_WEB.pdf](http://www.dignityindying.org.uk/wp-content/uploads/2015/08/DiD_MythBuster_Aug2015_A5_12pp_WEB.pdf)

<sup>4</sup> Margaret Branthwaite quoted in 'ITF director debates euthanasia in Ireland' Patients Rights Council Update 036 Volume 20 Number 2 (2006) <http://www.patientsrightscouncil.org/site/update036/>

<sup>5</sup> Margaret P. Battin, 'Euthanasia and Physician-Assisted Suicide', in Hugh LaFollette (ed), *Oxford Handbook of Practical Ethics*, Oxford University Press, Oxford 2003, p693.

<sup>6</sup> Thomas Nagel, 'In Whose Interest?', *London Review of Books*, Vol 33, No. 19, 6 October 2011.

<sup>7</sup> Liezl van Zyl, *Death and Compassion*, Ashgate, Farnham 2000.

<sup>8</sup> Liezl van Zyl, 'Euthanasia, Virtue Ethics and the Law', *New Zealand Bioethics Journal*, February 2002.

<sup>9</sup> Hilary Putnam, 'Levinas and Judaism', in Simon Critchley and Robert Bernasconi (eds), *The Cambridge Companion to Levinas*, Cambridge University Press, Cambridge 2004, p.58.

<sup>10</sup> Emmanuel Levinas, *Totality and Infinity*, Duquesne University Press, Pittsburgh 1969, p24.

<sup>11</sup> Emmanuel Levinas, *Totality and Infinity*, Duquesne University Press, Pittsburgh 1969, p28.

<sup>12</sup> Emmanuel Levinas, *Totality and Infinity*, Duquesne University Press, Pittsburgh 1969, p92.

<sup>13</sup> Emmanuel Levinas, *Otherwise than Being or Beyond Essence*, Duquesne University Press, Pittsburgh 2006, p117.

<sup>14</sup> Emmanuel Levinas, *Entre Nous*, Continuum, London 2006, p135.

<sup>15</sup> Jacques Derrida, *Adieu: To Emmanuel Levinas*, Stanford University Press, California 1999, p120.

<sup>16</sup> Dermot Moran, *Introduction to Phenomenology*, Routledge, London 2000, p320.



<sup>17</sup> Simon Critchley, *The Ethics of Deconstruction: Derrida and Levinas*, third edition, Edinburgh University Press, Edinburgh 2014, p3.

<sup>18</sup> Emmanuel Levinas, 'Ideology and Idealism', *The Levinas Reader*, Basil Blackwell, Oxford 1989, p247.

<sup>19</sup> Jacques Derrida, *Adieu: To Emmanuel Levinas*, Stanford University Press, California 1999, p4.

<sup>20</sup> Peter Atterton and Matthew Calarco 'Editor's Introduction: The Third Wave of Levinas Scholarship' in Peter Atterton and Matthew Calarco (eds), *Radicalizing Levinas*, State University of New York Press, New York 2010, pp.x-xi.

<sup>21</sup> Pope John Paul II, *Crossing the Threshold of Hope*, pp.108-109, available online at [http://www.excerptsofinri.com/printable/crossing\\_the\\_threshold\\_ofhope-popejpii.pdf](http://www.excerptsofinri.com/printable/crossing_the_threshold_ofhope-popejpii.pdf)

<sup>22</sup> Paul Schotsmans, 'Relational Responsibility, and Not Only Stewardship. A Roman Catholic View on Voluntary Euthanasia for Dying and Non-Dying Patients', *Christian Bioethics: Non-Ecumenical Studies in Medical Morality* 9:2, 2003, p.285-298.

<sup>23</sup> Torben Wolfs, 'Levinas, Euthanasia and the Presence of Non-Sense' in Roger Burggraeve (ed) *The Awakening to the Other: A Provocative Dialogue with Emmanuel Levinas*, Peeters, Leuven 2008, p304.

<sup>24</sup> Emmanuel Levinas, *Ethics and Infinity*, Duquesne University Press, Pittsburgh 1985, p.88.

<sup>25</sup> Emmanuel Levinas, 'The Proximity of the Other', *Alterity and Transcendence*, Columbia University Press, New York 1999, p.104.

<sup>26</sup> Emmanuel Levinas, 'The Prohibition against Representation', *Alterity and Transcendence*, Columbia University Press, New York 1999, p.127.

<sup>27</sup> Emmanuel Levinas, 'Cities of Refuge', *Beyond the Verse: Talmudic Readings and Lectures*, Indiana University Press, Bloomington 1994, p.43.

<sup>28</sup> Emmanuel Levinas, 'Cities of Refuge', *Beyond the Verse: Talmudic Readings and Lectures*, Indiana University Press, Bloomington 1994, p.43.

<sup>29</sup> For example, Emmanuel Levinas, 'Interview with François Poirié', *Is it Righteous to Be?* Stanford University Press, California, 2001, p.56.

<sup>30</sup> Emmanuel Levinas, *God, Death and Time*, Stanford University Press, California 2000, p.72.

<sup>31</sup> Torben Wolfs, 'Levinas, Euthanasia and the Presence of Non-Sense' in Roger Burggraeve (ed) *The Awakening to the Other: A Provocative Dialogue with Emmanuel Levinas*, Peeters, Leuven 2008, p317.

<sup>32</sup> James Rachels, *The End of Life: Euthanasia and Morality*, Oxford University Press, Oxford 1986, p5.

<sup>33</sup> Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Stanford University Press, California, 1998, p.104.

<sup>34</sup> Emmanuel Levinas, 'The Proximity of the Other', *Alterity and Transcendence*, Columbia University Press, New York 1999, pp.106-109.

<sup>35</sup> Emmanuel Levinas, 'Transcendence and Height', *Basic Philosophical Writings* Indiana University Press, Bloomington 1996, p.18.

<sup>36</sup> Emmanuel Levinas, *Humanism of the Other* University of Illinois Press, Chicago 2006, p.30

<sup>37</sup> For a significantly more detailed account of many of these issues in relation to the key yet slippery notion of the 'trace', see chapter 3 of my *The Politics and Pedagogy of Mourning*, Bloomsbury, London 2015.

<sup>38</sup> Emmanuel Levinas, *God, Death and Time*, Stanford University Press, California 2000, p.9.

<sup>39</sup> A. T. Nuyen, 'Levinas and the Euthanasia Debate', *The Journal of Religious Ethics*, Vol. 28, No. 1 (Spring 2000).

<sup>40</sup> Emmanuel Levinas, *Time and the Other* Duquesne University Press, Pittsburgh 1987, p.43, 72, 69.

<sup>41</sup> Emmanuel Levinas, *Time and the Other* Duquesne University Press, Pittsburgh 1987, p.73.

<sup>42</sup> Emmanuel Levinas, *Totality and Infinity*, Duquesne University Press, Pittsburgh 1969, p.73. This claim is discussed and apparently endorsed by Nuyen in 'Levinas and the Euthanasia Debate' p.130, yet he then proceeds to apply claims that emerge from the experiential relation to suicide of the self (such as its concept being contradictory) to the suicide requested by the other.