

JUST SUFFERING

A THEORETICAL ENGAGEMENT WITH THE DEMANDS OF JUSTICE

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200

ABSTRACT

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This thesis will engage with the relationship between justice and suffering in order to more clearly understand what being just entails and how we can theorise justice as demanding in a desirable way. Theorising this relationship will focus on the role of various conceptions of self and community to show how justice, as contextual and communal, can be demanding in a way that does not drive the self that suffers apart from those that benefit from justice.

Methodologically the thesis will follow in the tradition of self-reflection in the way it was described by Alan Blum and Peter McHugh. This means that the thesis will try to understand justice and suffering by looking at the foundations of justice, or, put differently, by trying to theorise what it is that makes some instances of suffering just. To this end the argument will begin by outlining a concept of community and of justice to then begin looking at various arguments that relate justice with suffering, either explicitly or implicitly and describe this relationship as desirable.

Understanding community in a way that is based on Jean-Luc Nancy's idea of *being-with-others* the thesis already sets out a way of conceptualising a social actor that is essentially related to other actors. This is then used as the foundation of a community in what will be called a *place*. This placing of the social self will also be used to place justice and move away from justice as relying on universal principles.

The thesis challenges three main arguments: a) René Girard's justification of excessive spectacular violence against a scapegoat as a means of controlling the violent desires of a community by performing sacred and public acts of violence; b) universal principles using individualist theories of justice by John Rawls and Immanuel Kant; c) benevolence as an alternative to justice as presented by virtue ethicists and also communitarians (specifically Michael Sandel). These three theories are shown not to appreciate various aspects of justice as fairness and a community (in Nancy's sense);

ABSTRACT

particularly the silencing of difference in Girard's false utilitarianism, the ignorance of existing injustice and suffering in Rawls' universalism and the antagonism between the self and the universal interest in virtue ethic's benevolence (Christine Swanton and Aristotle in particular).

The thesis concludes that, in order for justice to be demanding in a way that does not disrupt a community, and in order for members of the community to suffer as part of the demands of justice, the community needs to be able to engage with itself theoretically, allowing it to commit itself to achieving justice. In this process of recognizing injustice and then pursuing fairness, a community has to be able to bind itself to its commitment in such a way that it can affirm itself as a community that is committed to justice, even if this commitment will cause some members of that community to suffer.

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CONTENTS

ABSTRACT	3
ACKNOWLEDGEMENTS	5
CONTENTS	9
INTRODUCTION	11
JUSTICE AND SUFFERING.....	11
ATTEMPT AT A SUMMARY	13
METHOD: HERMES	23
INTRODUCTION.....	23
BEING GROUNDED	24
THEORISING	30
COMMUNITY	37
INTRODUCTION.....	37
SELF AND OTHER	40
COMMUNITY.....	45
COMMUNION	50
STATEMENTS AND MULTIPLICITY.....	54
PLACES.....	61
SELF-REFLECTION	64
<i>EX TRANSIRE</i>	66
JUSTICE	69
INTRODUCTION.....	69
UNDERSTANDING JUSTICE.....	70
THE ACTORS	86
RITUAL SACRIFICE	99
INTRODUCTION.....	99
NOISES	101
COMING TOGETHER.....	109
JUSTIFICATION	131
DUTIFUL SACRIFICE	143
INTRODUCTION.....	143
RAWLS.....	147
KANT	160
DUTY.....	168
SELF SACRIFICE	173
INTRODUCTION.....	173
EXCESS	177
MODERATION.....	196
SELF-REFLECTIVE SACRIFICE	207
INTRODUCTION.....	207
PARTICULARITY AND UNIQUENESS	209
PRINCIPLES	213

CONTENTS

SELF-REFLECTION, JUSTICE, SUFFERING.....	220
BEING RESPONSIBLE AND BEING-RESPONSIBLY	226
CONCLUSION	232
POSTSCRIPT: HODITES	235
VALIDITY AND VIOLENCE.....	236
RELIABILITY AND COMPLETENESS	240
IRONY AND RESPONSIBILITY.....	242
BIBLIOGRAPHY	245

1

INTRODUCTION

JUSTICE AND SUFFERING

The following thesis will be a self-reflective engagement with the relation between justice and suffering. For the purpose of an introduction I will spend a moment trying to introduce what is meant by a self-reflective engagement, what is meant by the *relation* between the two concepts and what could be meant by justice and by suffering. The second half of this introduction will be a brief summary of the argument that will be presented.

A self-reflective engagement seems to imply an introspective engagement: the *self* that reflects on the topic. But the self-reflective approach, that will be one of the central aspects of this thesis, relies on a very specific understanding of the self that greatly alters the meaning of a ‘self that reflects’. I will aim not to give away too much from the second part of this introduction, or the thesis in general, but the concept of a self that is considered at the basis of self-reflection is a self that is contextual and social; a self that is essentially related to others within a place. If I claim this thesis to be a self-reflective engagement, then it needs to be an engagement that is sensitive towards the framework or grounds within which I write. This thesis is titled: ‘A theoretical engagement’, and, given a self that is essentially related and oriented with others, ‘theoretical engagement’ describes an analysis from an oriented and interested

standpoint. This thesis then becomes a task or project: how can I reasonably and intelligibly explicate the relationship between justice and suffering?

But this already presumes that, upon formulating the problem, I expected there to be a relation and that I had an understanding of what justice could possibly be. The topic in its first iteration was the problem of the demands of justice; even though these demands are mentioned in most theories of distributive justice, they tend to be marginal.¹ It was Peter McHugh's paper *Shared Being, Old Promises, and the Just Necessity of Affirmative Action* (2005) that explicitly talked of suffering when talking of justice. The role of suffering in the paper is not central, but the paper opened up the relation between suffering and justice as a topic in its own right. Besides justice being understood as demanding, there was a second influence on this topic that hints at the orientation of the topic: Stanley Raffel's paper *Parasites, Principles and the Problem of Attachment to Place* (2006) considers the relation of individuals to a place and a community, yet these instances include those of suffering and injustice in the form of the parasite. The question, instead of an engagement with how demanding justice could be, began to develop into the connection of the self to a place or community and in how far this relation is at the heart of the relationship between justice and suffering. Intuitively it was very easy to imagine examples of injustice and suffering, such as an unprovoked murder; it was equally easy to imagine instances that at first sight relate justice and suffering, such as being punished for committing a murder.

So, instead of an engagement with justice and what exactly distributive justice should be understood as, this thesis began to focus on suffering as something that appears linked to justice and the arising problem of how to conceive of justice as *desirable and fair* when its pursuit is seemingly demanding, painful and undesirable to some of the actors involved. So, the project started to, in retrospect, resemble Glaucon's endeavor to understand why justice is preferable to self-indulgence and self-preservation. (Plato 2009) This aim to understand the desirability of justice even when it might cause suffering led to an engagement with literature that either explicitly regards suffering as desirable (Girard 1977; Bataille 1985), literature that regards suffering for another's benefit as desirable (Crisp 1998; Hursthouse 2001; Swanton 2003; Aristotle 2006) and that regards justice as so desirable in its own right that it *justifies* suffering

¹ Rawls' *A Theory of Justice* (1972) is a particularly good example of a justice theory that only implicitly mentions justice as demanding.

(Rawls 1972; Kant 1998). The summary that is to follow will try to outline the way in which these various forms of literature were considered and constantly related back to the concept of community and justice in order to explicate a connection to suffering that was neither in conflict with the self as a member of a community, nor in conflict with the concept of justice as fairness.

ATTEMPT AT A SUMMARY

Method

The thesis will begin with a short account of its method of analysis, namely self-reflection. Before I will talk about the theoretical background of the method, the chapter will look at the very concept of method and how the method of this thesis is not a straightforward procedural account, as would be the case in most empirical research projects. Instead *method* will be understood as a theoretical analysis of the possibility of the research and how I understand myself as theorising. The first concept considered in this respect is consciousness, which, much in the way that the *self* was central to the understanding of self-reflection, is central to understanding the way in which the thesis engages with authors and how I understand myself as an author. Consciousness will be argued to be an achievement as the self is conscious only through the exposition of itself to others within a framework. Alan Blum and Peter McHugh's (1984) concept of self-reflection will be used to relate consciousness to exposition, insisting that exposition relies on others. This also leads to consciousness being compared to Jean-Luc Nancy's (2000) concept of *being-with* as the way in which the self *is*.

Showing the self as conscious through exposition and speaking, yet never able to escape this state of exposition through speech, forces me to consider the relation between speech and language and, if all *we* ever are is a set of speakers, then language offers us a means of explaining, even if in a limited sense, the problem of order and intelligibility. Wittgenstein's idea of the deep need for convention (in Blum and McHugh 1984:36) will be argued to indicate that knowledge and intelligibility rely on agreed forms of speech, or agreed forms of using language. The chapter will then show how the thesis does not aim to escape this situated self, which is bound to speaking

(which is necessarily oriented), but instead, the thesis will try to concern itself with the foundations of the intelligibility within this situatedness. This will lead to regarding reading and writing as distinct activities, yet both are trapped by speech, which relies on being intelligible and therefore relies on being conventional. I will argue that the thesis as theoretical engagement tries to use this essential need for conventionality as the starting point of analysis by trying to understand what makes the sources considered intelligible and by disrupting this intelligibility by confronting it with its own foundations. The method chapter will show how I engage with texts and how I generate theory out of this engagement.

Community

As I briefly mentioned above, the first approaches to the topic of suffering and justice already implicated community and the relation of the self to community as relevant. The strong emphasis of the method on a particular sense of *self* and McHugh's (2005) argument for affirmative action relating justice to community and the specific actor within the community both mean that the first chapter has to establish some kind of basis for understanding a communally oriented actor.

As with the methods section the first concern is to outline a particular sense of consciousness. I have already mentioned that consciousness is understood to rely on exposition, but in the chapter on community I will explore this idea further, and more importantly, explore its impact on concepts of community. I start this more detailed engagement by looking at the very concept of exposing and exclaiming as essentially tying the self to a phenomenological world within which I expose my *self*. Blum and McHugh's (1984:14) reference to Husserl's concept of the life-world is then expanded to include Derrida's concept of trace (1976:70). The 'life-world' becomes the experienced world of signs within which everyone has to essentially live. It offers us the first sense of a space within which the self exposes and exclaims its existence. But, further, the world as a complex set of signs is shaped by way of exposure, so rather than being an empty space within which I expose my own existence, the world resonates my existence and the existence of others, which invariably leads us to the problem of order posed by the idea of a world that is inter-subjective.

Again, in line with the chapter that deals with methods, the source of order is located in communication, intelligibility and the deep need to speak intelligibly, or the deep need for convention. But I will also stress that this *deep need* cannot be located outside the life-world, or as independent of the life-world. It is instead understood as the foundation of any meaningful exposition within a life-world. And here, we will first introduce George Bataille's concept of self, but focussing on the aspect of the despair from having realised that the self is dependent on the exposition of itself towards others and cannot escape this reliance on the others that form intelligibility (1998). Bataille in many ways seeks refuge from this dependence on others and the inescapability from convention by looking at excess and death as escape. Nancy (1991) takes this up and argues that *being* is essentially shared with others, and Bataille's escape from relatedness invariably is also an escape from *being* or from *consciousness*.

But, being about community, the chapter will not pursue the theme of death but instead will focus on the realisation that *being* is essentially shared in Nancy's concept of the inoperative community. Nancy describes this as *being-with* (2000) but the thesis will use Nancy's other term being-singular. The problem we might be starting to develop is that of sharing more generally, since all that Nancy's inoperative community offers is a shared-being that is essential and is present regardless of any conditions: in his terms, my existence is shared, even if I choose to commit atrocious injustices. We therefore need to develop a stronger sense of sharing that relies on recognising something that is shared. It is here that the chapter on community will begin to make the shift from focussing only on the deep need for conventions as space and instead introduces the concept of a place as the consequence of sharing-being over time and actually sharing conventions, and not only a deep need for them. The chapter will conclude that community, rather than a simple group of independent individuals or a groups of actors who consider themselves *same*, is actually a group of singular actors that realise their essential relatedness and orient towards the common- or shared-place that this essential relatedness has created and within which they can be singular. The singular self is then understood in Raffel's sense of an 'I', 'Us' and 'Place' symbiotically. (2004:17)

Justice

The chapter on justice is, at heart, an engagement with McHugh's (2005) paper on affirmative action with the aim of setting up an understanding of justice that can be seen to relate to suffering. The need for a clear concept of justice prior to engaging with various forms of relating it to suffering is central, yet the chapter itself mainly regards various forms of *doing* justice and their respective applicability in various situations. In this sense, similar to McHugh, the chapter does not necessarily condemn any particular approach to justice as undesirable, but instead it begins to outline justice as contextual and as *placed* since even justice cannot escape the situatedness that binds the singular self.

The chapter becomes concerned with justice as fairness in order to allow contextuality and, in order to stress the communal aspect of justice, the chapter begins by differentiating morality from justice, stressing that justice, even if linked to morals and ethics, is distinct as it is a communal concern: in order to consider an action as fair or unfair we require more than an individual since justice is a matter of distribution and proportion. Being a matter between singulars justice becomes concerned with context and the matter of who deserves what.

I will then look at utility and lottery as two mechanisms of ensuring fairness. The example of strangers finding some money in the street illustrates how, if several people find it simultaneously, four equal parts is fairest and also maximises the overall gain by everyone involved. In the same example, if the money cannot be divided into equal parts, then lottery is a mechanism that fairly deals with the problem of no one having a claim to that money, or put differently, no one deserving the money more than the other.

But lottery introduces a problem: some people will lose whilst others will win. I will then consider suffering and the issue of scarcity before moving on to examples in which the problem of desert is more explicit. What will be differentiated are several oppositions that each highlight aspects of the context within which justice occurs: is a situation accidental or is someone responsible? Are the people anonymous, are they recognisable as relating to the injustice, or are they well known to actors confronted with the situation but have no particular relation to the injustice? And finally, is the

situation one of scarcity that could be further minimised, or is the scarcity related to responsibility?

Stressing the contextuality of justice in this manner and using several of McHugh's examples, I will eventually show how affirmative action can be argued to be just in certain cases, much in the way that a more formal concept of equal opportunities or even utilitarianism can be understood as just. The difference with affirmative action is that it is more openly demanding and that it relies on being explicitly contextual in McHugh's argument, which makes it an ideal example to begin to understand the dynamic between community, justice and suffering, and in how far various approaches to justice, that understand themselves as context independent, actually rely on concepts of community and suffering.

The closing section of the justice chapter will then introduce a variety of actors that either cause suffering or are themselves suffering in various forms and relations to community, all of which then, however, have an unfair relation to suffering. These characters will offer a glimpse at the three chapters that deal with three distinct problems relating to suffering and justice.

Ritual-Sacrifice

This chapter will take up the problem of theories that argue the sacrifice of an individual to be justifiable and it tries to understand the type of community that such a justification has to rely on and how this sense of suffering can be justified, that is, how the spectacular killing of *otherness* can be made to appear to be just. The central argument will eventually aim to discredit the idea of a *communion*, that is, the idea of a community that understands sharing as sameness instead of relatedness and that such a community can only attain justice by silencing all those that are not *same*.

The means of making this argument are quite unusual and are, in a way, an elaborate metaphor, where the image of an oppressive community that silences its own injustice is compared with the scene of a ritual, or spectacular, sacrifice. To this end, the chapter will start to describe what is meant by a spectacle and what is understood as a sacrifice, differentiating it from a punishment. In order to be relevant, the suffering must

be spectacular, that is, it must in a way draw attention to itself and captivate the onlookers in a manner that distracts them from their differences as the spectacle unites.

This aspect of drawing people together through the spectacular will be considered something mythical, it will be considered a mythical foundation in the sense that it is both an imposed or prescribed past and in the sense that it is not a genuine foundation, but mainly a distraction. Michel Serres (1991) and René Girard (1977) are two main authors considered in this regard. Girard's connection between the sacred violence that is spectacular as preventing excessive profane violence and Serres' analysis of the foundation of Rome as a city that is repeatedly founded by murder both show how suffering is employed to create the illusion of justice and community. The equating of justice with equality (in the sense of sameness) becomes an issue since the crowd that is captivated by the murder of others, and is captivated by the prescriptive power of the murderer on the scaffold, *appears* equal. Silencing the crowd by silencing the Other generates equality and generates the illusion of justice; an illusion, that in Girard, is ultimately defended as a necessary evil and as a means to avoid the excessive bloodshed of a communion that realises that it has differences and conflicts within itself. The ritual sacrifice, the prescriptive dictation of justice through silencing is argued to be the justice of a community that has never learned to share. It is the equivalent of punishing a scapegoat for the failures of the community, which is an image of the relation between injustice and suffering.

Dutiful Sacrifice

In our pursuit of a relation between suffering and justice, where justice is not a consequence of suffering, but suffering a consequence of justice, the chapter that deals with duties and obligations looks to John Rawls (1972) and Immanuel Kant (1998) to try and find a concept of justice that does not seem to silence the individual actor and that does not seek to quench otherness. This chapter will be an engagement with the argument that justice has to be universal, disregarding the difference of everyone involved: unlike the previous chapter justice is not whatever is forcefully achieved by agreement in the end, but it stands before all other agreements. Justice as universal is itself foundational to community in a sense.

The transition from myth to duty will look at duty and obligation as a justification for action and the mythical story of Hyllus' duty to Hercules, his father, will be considered as an example of a duty as a means of avoiding responsibility for action: 'I just did my duty'. This problematic is the entry into a critique of Rawls and then Kant, since, unless their universalism is founded in justice, rather than justice being founded in an unfounded universalism, their argument becomes an obligation that no longer requires the actor to consider justice, but instead a duty without any responsibility beyond compliance.

With both Rawls and Kant this problem will be argued to be unresolved as the universalism of their respective arguments is ungrounded and empty. Rawls' argument for his two universal principles of justice rests on an agreement to these principles in a hypothetical original position (1972:60) where each member of the community is stripped of any inequality that might lead to a disagreement. In Kant's (1998) argument for the categorical imperative the universalism of ethical rules does not rest on a rich evaluative self, but it rests on a definition of reason that is itself so universalised that the actor is no longer able to actively reason, but only able to comply with reason. If justice is understood as desirable it cannot rely on ungrounded universal duties that deny any assessment or evaluation of justice. The chapter will argue that both Rawls and Kant do not offer any relation between justice and suffering, but only a relation between obligation and suffering, that is, a demand and suffering without offering a reasonable relation between demand and justice. The chapter will also, however, introduce the idea of *good* and the importance of a strong sense of a self that is able to be evaluative.

Self Sacrifice

The chapter that engages with self-sacrifice engages with an evaluative actor that suffers oriented towards a community hoping to do good. There are various instances of this that will be considered: the hero, the saint, but also a less excessive self-sacrifice in the form of the virtuous actor in the tradition of virtue ethics. The chapter will show how an orientation towards doing good for the community either radically differentiates the self through excessive suffering or describes a moderate self

that does not orient towards justice but orients towards what it can afford (at times exceeding fairness and at times not achieving it).

The first section of the chapter will try and look at examples of excessiveness, particularly the hero and the saint. The hero, as someone who risks in an evaluative and contextual way as he or she responds to situations, will be argued to be *good*, but in a way that goes beyond what could be reasonably demanded by a just community. The heroic action is argued to be exemplary and in that way it is exceeding expectations and displaces the hero who is no longer an ordinary member of the community, but is greeted with gratitude, admiration and attention. The problem that is beginning to emerge is that suffering in a manner that is generally desirable is not something that necessarily affirms a community in the way that McHugh implies justice does. The saint, who unlike the hero, is not just a responder to situations but is an idealist with a strong set of chosen moral convictions suffers from the same problem, but it becomes exaggerated as it becomes destructive for the saint to hold these principles with an orientation towards community, instead of an orientation towards being just in a community. The saint does not deserve his or her suffering, but it is a burden that is taken on gladly. The saint offers an image of suffering that seems undesirable to most, even when it is admirable as a result of its exemplary nature.

It is virtue ethics that tries to avoid the excess of the saint whilst keeping the commitment to moral principles. Aristotle (2006) offers principles that are in themselves oriented towards moderation, oriented towards doing something excellently. However, this burdens virtue ethics, especially in its more recent revival (MacIntyre 1985; Crisp and Slote 1998; Hursthouse 2001; Swanton 2003), with a self that is independently moral, yet this independence creates the Other as a conflicting interest: either the virtuous self acts in an exemplary way at which point the self becomes saintly, or the self acts with moderation at which point it is no longer particularly good. Virtue becomes the evaluation between caring for the self or for the Other. In a sense, virtue is concerned with what the virtuous actor owes others. The problem that this leaves the final chapter with is a way of overcoming the self as separate and overcoming suffering as something that separates the self (either through being distraught at suffering or through being admired and praised).

Self-Reflective Sacrifice

The final chapter starts by revisiting one of the issues that spanned across the community and justice chapter: a sense of community that allows a place that is shared, diverse and concretely relevant to the lives of those within it. This place needs to allow for certain groups of members to be particular, that is, recognisable as different in a way that is relevant to the fairness of the place. What becomes important is how to understand this particularity as something that can be recognised as a part of a place, rather than something that disrupts the place, fracturing it. The problem of recognition will return us to the very beginning of this thesis: self-reflection and the ability of a member of a community to theorise it without removing or excluding the self.

Once the argument has established a self that can evaluate the community as a member of it in a way that realises the self as an integral part of the Other, as a shared-being, as sharing-being, then we can begin to think of such an actor as orienting towards fairness, at which point the argument will no longer try to show justice to be any particular mechanism that aims to achieve justice, but justice is an orientation towards fairness *in a place*. This orientation and the self as actively placed and related to a community will give us a self that chooses to be just and that takes comfort in the justice of the action even if it is demanding.

The shift from justice as a given procedure to justice as the orientation and reflection on fairness in a place leads to two final steps that create a genuinely just sense of suffering: a) this orientation is a shift away from a self-other dichotomy and therefore stresses what people deserve, rather than what specific groups or members owe others which was argued to be destructive of a community, b) this orientation as evaluative has to be a committed one, that is, it has to, once recognising an injustice, be able to *promise* justice in its stead, which takes us to McHugh's idea of a promise as a theorised action that binds us to our choice so that we may remind ourselves of that choice in instances when it might seem demanding and when we might lose sight of our orientation to fairness that made us utter a promise in the first instance.

Comment on Postscript and Ingression

The Postscript, which follows the main body of the argument, is aimed to offer the reader various ways of engaging with the thesis both as an argument in itself and as a contribution to a more general topic. This ‘offer’ will be referred to as an invitation to respond and to enter into a dialogue (in a sense). Since, as the method section aims to establish, I consider myself to be oriented, the postscript invites a response to this orientation. This way of asking for a response will also try and frame the thesis’ outgoing concerns and in what way it desires to be engaged with. The postscript will very briefly touch on some methodological issues left untouched in Chapter 2 in order to achieve this transition out of the argument.

More importantly this very introduction is also a form of invitation, however one that precedes the thesis. It is a means of offering an orientation into the thesis by offering a summary, a short glimpse at what is to follow. It is meant to allow the reader to orient towards the thesis *through* a sense of what it is trying to achieve and the trail in which it follows this argument. This summary, in a figurative and literal sense, offers the reader some sense of the shape of things to come.

2

METHOD: HERMES

INTRODUCTION

Alan Blum states in his refusal to formulate a method of approaching his book *Theorizing*: ‘I could attempt to teach you to read the following work but such an effort would deny my argument.’ (1974:xi) However, not discussing the methods of this thesis would be counterproductive and the idea of this work is not to go unannounced, but maybe to have faith in the reader. To this end, both this chapter on methods and the postscript titled Hodites will form a framework for engaging with this text. This is the first part, the postscript the second.

Why split the discussion on methods between this chapter and a postscript? In a sense these two sections will function as a form of parentheses in order to frame the thesis. The two sections are a means of contextualising this work by exploring, explicating and exposing its methods. Of course parentheses only make sense if they have content, and in a sense they offer a means of both differentiating and including something. This form of writing about methods, in my opinion, is truer to the original sense of the word: the Greek words of *meta* (after) and *hodos* (way). The modern sense of a method as a practical procedure is unlike this opening. Instead it is a prescription of how to travel rather than where to go. The *meta hodos* sense of methods on the other hand requires method to be something that happens along the way, something that is not simply given prior, but that is discovered, engaged with and explored.

Hermes and Hodites provides a sense of the purpose and structure of the methodological engagement as it is spread into two distinct parts. The first tries to engage with my method of encountering my sources, which are almost exclusively textual: Hermes the interpreter. In this chapter I will engage a little further in my understanding of method and how I can engage with texts. But the rest of this section is aimed to prepare the reader without prescribing a way of interpreting. I will try and outline some foundations of this thesis. I will aim to outline my understanding of myself as reader and author and how I understand myself to construct meaning and understanding. The second part, the Postscript, on the other hand, will focus on returning the thesis to the reader by outlining its understanding of itself as text and how it desires to be read. The Postscript refers to Hodites, or a wayfarer, as it will focus on the issues of being read, incompleteness, irony, and responsibility. This odd amalgam of concepts will aim to exit this text into a context: it will aim to provide the reader with ways of travelling on through the engagement with this thesis. It is intended to lead the reader out of the thesis.

BEING GROUNDED

Method

If usually a description of methods is understood as describing ‘the exact steps that will be undertaken to address your hypotheses or research questions’ then it makes sense that usually ‘the Method section follows logically from the statement of the problem in much the same way as research questions follow from the Review of the Literature.’ (Rudestam and Newton 2000:87) If we understand methods as a precise catalogue of the procedures employed in a piece of research to deal with a specific problem, with an elaboration on the reasons why it is sensible to choose these procedures for the proposed problem rather than others, then this chapter is not a methods section. However, what one might begin to ask of an empirical piece of research is a procedure or method for formulating the very questions that it is asking, which inadvertently will introduce the researcher as an active component. This methods chapter is explicitly self-centered and does not try to provide instructions for achieving a research result that can be followed by others in that very way. When I say self-

centered I do so in the sense of trying to get to grips with myself as the researcher and writer of this thesis; partly for the benefit of the reader. I will try to show how I understand myself as able to read, able to write and able to theorize.

There are two parts to this: the first part of the method is a genuine concern for my own foundations and orientation; the second part is projecting this sense of understanding myself forward into the thesis, where it will play a central role. The next chapter will try to deal with a way of understanding the social actor as necessarily grounded and oriented in a way that makes him or her part of a place. It would be oddly arrogant to presume that I could be different from the self I describe in the next chapter. If it would not be intended as arrogance I would simply be contradicting myself if I were to remove myself, as relating to a tradition and foundation, from the rest of this thesis. This method will be a prelude to a more extensive analysis of the self and community by talking more explicitly about the possibility of my own theorizing and how I can write as a social actor.

But the engagement with the possibility of my own theorizing will be a theoretical one: this methods section will have to be an example of itself as it presents a method by already using that method; consequently laying bare its grounds and foundations is already what it will aim to convey as the method used for the thesis in general. To clarify this a little: if this version of methods is a concern with the possibility of my own speech and the thesis itself is an engagement with the possibility of suffering in theories of justice, then it is hopefully clear how both the method of engaging with this thesis and the method for engaging with my own method are both equally a concern with foundations. The topic of analysis here is methods and the topic of the thesis that follows is the relation between justice and suffering; the method through which both questions are engaged with are the same. This leaves the methods chapter with a particular feature that Blum and McHugh note about their own theoretical engagement with their method of theorizing, which is that writing about a method becomes an example of that method (1984:9). It is here that we begin engaging with the foundation of this methods, both literally and figuratively, as Blum and McHugh's work *Self-Reflection in the Arts and Sciences* (1984) is the basis of my methodological understanding of the activity of theorizing. But this literal foundation

also leads us on to start discussing what self-reflection actually means and what I have come to understand of it.

Consciousness

I should begin by drawing out the centrality of consciousness to theorizing. Consciousness is not meant as simply being awake, but it is meant as being aware in an intentional manner: I am oriented. This is central to begin to talk about reading and writing as the more practical issues of theorizing. In order to understand reading and writing as activities we need to understand the self as acting in a conscious manner. If we were content with reading as the passive intake of knowledge and writing as the detached presentation of knowledge we would need no understanding of the self. If I desire to understand reading and writing as *activities* it is central to my engagements with text (as reader and writer) to understand the basis of the self's consciousness that grounds that understanding. What is at the heart of this focus on consciousness is the possibility of understanding, or the possibility of *making* meaning or sense from reading text.

Trying to understand the possibility of myself as speaking I cannot assume an objectivist understanding of the world, the self or language. If I presume that speaking is somehow an objective reference to an objectively experienceable world, then I also presume that language is presented by this world, it is discovered, rather than taught and negotiated. Instead, in order to theorize, I need to be able to understand myself as speaking intelligibly by sharing the language that I speak with others and that this shared language is the basis of my knowing-the-world. I know the world and myself (which is a part of consciousness) through speaking and through making myself heard. But this already puts me within a context: it would be impossible for me to speak of justice intelligibly if I had not heard of this word and concept through others using language. Equally, in order to speak of virtues in Chapter 6 with reference to Aristotle, I need to be familiar with Aristotle's writing, which again relies on my ability as language user. In order to think of myself as theorizing I need to understand myself as bound and woven into a framework and context that at the most basic level is my consciousness. In the next chapter I will more clearly articulate this relation to other

actors as essential to the possibility of my own consciousness. For now, the important part of this is that I become conscious of myself through learning and sharing the ability to speak and hear others speak. ‘I want to theorise the relation between justice and suffering’ already relies on a related, oriented and contextually active self. We are beginning to talk of a presentation of self, or of a self that exposes through speaking or writing. ‘Any exposition ... originates on the ground of principles and methods – that is, it is oriented.’ (Blum and McHugh 1984:3) and it is this possibility of an orientation that is the possibility of my consciousness.

This might seem fairly abstract, but I am beginning to consider the possibility of speaking and that this must happen in a space (or place). My consciousness is not something that is given and absolutely immanent. Instead it might be better understood as an achievement of my exposition of myself to others (and their exposition to me). If consciousness is an activity it is, however, an activity that is ‘necessarily self centred’ (Blum and McHugh 1984:3) as it relies on *me* speaking or being spoken to. In other words, my consciousness is my own, so, for example, I could not find myself to be the consciousness of a friend. So we can note an essential relatedness that results, or is synonymous with, my exposition and my achievement of consciousness. This sense of self-centredness and the sense of necessity of the Other leaves the self in a peculiar state of relatedness that is other than separateness (immanence) and other than sameness. There is something that I could call essentially *myself* but the very possibility of this already relies on having become conscious through others.

Nancy (1991; 1993; 2000) refers to this state of ‘being necessarily related to others’ as *singularity*; and understanding myself as essentially related to others in instances of singularity (or when I am consciously singular) is central to my understanding of myself as writer and reader and it offers the very possibility of engaging with a topic in the manner that will be elaborated below. What is central to note is that I, as speaker, and also you, the reader, are involved in an act of exposition through speech. However, speaking itself relates us to the space and place within which we speak: language. We might relate language to the concept of a limit, or a framework, neither of which we can escape. But, maybe more positively regarded, we can relate language to Nancy’s concept of freedom, which is an understanding of freedom as something that ‘throws the subject into the space of the sharing of being’ and freedom

relates to “reason,” “speech,” and “sharing.” (Nancy 1993:70) Language is nothing that fills spaces, but it keeps spaces open, it hollows out new spaces, spaces in which we can expose ourselves and in which we can exist as singulars.

Language and Speech

Language does not speak, but it enables speech or it is that *within* which we speak. But this does not explain how we actually manage to understand each other, or speak to each other in an intelligible way. Language, and speech occurring as the execution of language, becomes the single foundation of intelligibility and consciousness in this model. But to understand how it is possible to agree on matters, and why it is impossible to understand speech as something that merely transmits knowledge we need to look at Blum and McHugh’s very brief encounter with Ferdinand de Saussure and Ludwig Wittgenstein and maybe also look at Jacques Derrida’s understanding of how language ‘works’.

For Blum and McHugh (1984) understanding and intelligibility rest on the conventionality of speech. From de Saussure they appropriate the linguistic sign as an arbitrary social product that simply relates a phonetic sound (signifier) to a concept/object (signified). After noting the arbitrariness of the sign the important feature of language is that it is a ‘collection of necessary conventions’ (de Saussure, in Blum and McHugh 1984:33) making language what is shared. Using signs, or speaking, relies on a complex set of agreed and shared conventions of usage which all combine into what might be called language. Arguably it even follows that consciousness itself depends on shared conventions in order for the ‘getting to know the self’ to be conceivable. This leads us straight to Wittgenstein. Blum and McHugh’s engagement here is not with Wittgenstein’s work in general, instead they focus on a passage in the *Remarks on the Foundations of Mathematics* that questions the existence of an *essence* or something outside language:

if you talk about essence – , you are merely noting a convention. But there one would like to retort: there is no greater difference than that between a proposition about the depth of the essence and one about – a mere convention. But what if I reply: to the depth that we see in the essence there corresponds the deep need for the convention (Wittgenstein, in Sluga and Stern 1996:220)

This almost seems to state that the only essence is intelligibility, which means that the only essence is convention. So we end up with the grounds of consciousness, or the possibility of being, relying on, or producing conventions and agreed forms of usage. When we speak of agreed forms of usage we are talking of speech in a general sense of exposition. This implies the sign only signifying what effectively has to be another sign as the sign is little more than an agreement resting on signification. If two speakers agree on seeing a teapot, the agreement rests on a shared set of signs: a spout, a handle, it holds tea, and so on. The deep need for convention, with its rather particular position as an origin of signs (or exterior to signs), yet still part of, or only sensible through the sign (or interior to signs), seems to be similar to Derrida's concept of the *trace* (1976:70).

We are then starting to see the possibility of what Blum, McHugh and others refer to in various texts as theorizing, self-reflection or analysis (Blum 1974; McHugh, Raffel et al. 1974; Blum and McHugh 1984). If conventional language usage and intelligibility relies on its conventionality, and if knowledge in that sense is merely a form of agreement, then inquiry can begin to regard the sensibility, reasonability and conventionality of language usage. In other words, rather than merely examining speech for its 'correctness', that is its adherence to an agreed usage, we can begin questioning and explicating the agreements and conventions that make certain acts of exposition reasonable or 'correct'. As a consequence only few sections of this thesis offer in depth summaries of other authors and mostly the thesis uses these authors to show how their language usage is founded on a particular convention.² In many instances this approach to theorising led to authors being used as inspirations and for their intelligibility, more than their content being used as a means to understand the relation better: Girard's argument for sacred violence for example is reasonable, but my concern with it will be the grounds for this reasonability. In other words, what kind of self, what kind of justice, what kind of community are the grounds for this reasonable violence, and are these grounds reasonable when we relate them back to the sense of community and justice put forward in the next two chapters. We are now at a point at which the reader can understand that the aim of this thesis is not an attempt to answer a question that was

² McHugh and particularly his paper on affirmative action is probably the most distinct example as my understanding of his work raised the relation between justice and suffering as a topic, a topic which then began to engage with the relation of other authors to my orientation and their intelligibility.

posed by the admission of incompleteness of other research: this thesis does not aim to look at other texts as partial accounts that leave aspects unanswered. Instead this thesis chose a topic and it will concern itself with its possibility.

I will engage with texts on the topic and try to consider what it is that makes them sensible and if the foundation of their intelligibility is itself compatible, reasonable or grounded. To slightly elaborate on the idea of a foundation: if speech relies on an orientation, on a singular self, on exposition and on a deep need for convention, then it is uttered within a context. *Context*, however, might not be the best choice of word since, rather than strictly *with text*, the idea of a foundation or grounds is within- and out-of-which text appears. This does not make the explication of the grounds an attempt to outline the standpoint of an author replicating his or her work trying to get a 'better' understanding. I do not aim to look at the topic from someone else's perspective, and I would challenge the possibility of any such attempt. The concern with possibility is to understand the discursive foundation that makes a concept possible. What is the difference between engaging with a text critically rather than engaging with a text's foundations and its intelligibility? Maybe the clearest example of this difference can be found in the section that deals with virtue ethics in Chapter 7, where the concern is not a critique of what virtue ethics tries to achieve: an ethical theory that offers action guidance; instead the concern is more and more with the foundations in Aristotle and the foundations in a self-other dichotomy, which are arguably so well hidden that even very recent attempts of balancing the virtues between undemanding and overly demanding have failed to explicate this foundation. But, instead of an outright dismissal, the disruption on the foundation or framework is thought to both reveal the relevance of virtue ethics to this project and reveal a clearer understanding of what virtues could be if they were founded in a different understanding of self.

THEORISING

Reading

In order to be able to formulate a topic I already have to be oriented: uttering a topic is a form of exposition. The formulation of the topic is already interested and

oriented: at the moment of the formulation there already stood the presumption of the topic's intelligibility and a certain orientation towards a solution or formulation of the relation between justice and suffering. The topic itself is not exterior to the discourse but it is constituted by and constitutive of the thesis. This means that the topic itself is already testament to my orientation towards it. This is critical to my understanding of myself as reader, since I can begin to engage with texts in two distinct ways: I can read a text presuming that I understood it, engaging with its content, describing how this content aids my formulation of the foundations of the relation between suffering and justice; or I can read a text and concern myself with its grounds trying to grasp its possibility and my possibility of understanding it, beginning a process of what Blum and McHugh describe as 'selective and often eccentric readings' (1984:8). The second type of engagement to some extent presumes the first: in order to engage with the foundations of a text that explicates on topics of justice or suffering I must be oriented: I must have formulated my topic, the formulation of which relies on my orientation where justice and suffering are intelligible concepts. I need to be a conventional language user in order to begin to analyse the conventionality of my speech through the choice of a topic: the thesis in many ways is an engagement with the possibility of the topic.

But what does it mean to read selectively and eccentrically? And, given the above example of virtue ethics as a reading for a text's grounds, do I engage in texts for their content, or do I always aim to engage with its intelligibility over its content? In many ways the most eccentric chapter is the one that engages with the ritual sacrifice and as such it also offers many instances in which the reading of texts is selective and the very selection of texts is eccentric, including mythological accounts of heroes, classical plays, histories from antiquity and so on. But, an eccentric selection of texts and sources does not necessarily imply an eccentric reading. The chapter nonetheless takes these texts and treats them as accounts of suffering, of justice, of violence and of communities. At times the sources are engaged with in eccentric and unusual ways as they interpret a Herculean adventure as an example of injustice or Shakespeare's *Titus Andronicus* as an example of a failed community. This might show that the eccentricity is partly a result of trying to explicate the implicit foundations in the texts and how the

concern for foundations and intelligibility allows me to use an eccentric selection as relevant.

The thesis consists of two parts then, both of which are interwoven and intertwined: I will engage with a topic in a direction that is already implied by my choice of that topic; and I will reply to authors who seemingly have (either as their grounds or as the content of their writing) written on the relation between justice and suffering. This sense of a reply and what a reply could consist of brings us to writing, rather than reading, so on a final note on reading, my engagement with a text is not one of consumption. I do not consume content since I do not aim to present a summary of various arguments. Much the way Blum writes in his comparison of Aristotle and Plato (1974:5-9), I do not intend to regard the authors whose texts I engage with as an incomplete set of expositions that fail to truly recover a meaning. Instead of trying to speak the 'truthful' meaning by a progressive synthesis of sources I aim to regard my sources as founded in a silenced orientation, the explication of which is hoped to reveal the grounds of the relation between justice and suffering. This means that I do not look at all the texts purely as one part of all the pieces that make my thesis complete, but instead I have to understand my thesis as itself incomplete and founded. Ironically the process of considering more and more sources gives the thesis a sense of progression and the thesis ends in a conclusion implying both synthesis and completeness, but the issue of the particular sense of completeness will be dealt with in the Postscript. To return to the two ways in which I approach texts, this thesis is a play of creating unity (or agreement) through an engagement with content, to then understand the foundations of that very agreement.

Another effect of this engagement, and the concern for foundations, is that there is an element of being 'unfaithful' to the author. This is partly a matter of being singular: I construct the meaning of a text actively given my position as specific speaker in the shared space of language. This orientation within language is that which both connects and necessarily distances myself from the Other, which in this case is the author. Besides the impossibility of replicating meaning and the active interpretation of the reader that generates meaning from a text, the other reason for the 'unfaithfulness' or even 'violence' is a shift from reading a text purely for 'its own sake' to instead concerning myself with its foundations and using, it consciously pursuing an

orientation. McHugh et al (1974:12) describe the usual understanding of doing violence as a way of showing the insufficiency of an author's writing (or, in their case a member's language usage) with an intention of correcting or completing it. Describing their own work they say that their violence to a language user's speech is one of theorising the convention they look at. Instead of following the conventionality of the speech regarded, they aim to understand the foundations of the convention, inevitably disregarding its content as meaning, but regarding the speech as reasonable. We can point forward to Chapter 5, where I will take Hercules as an instance of injustice, as an example of what this violence means. Surely, illustrating the injustice on Hercules' part for slaying the monstrous Cacus is not an explicit intention of the author (neither of Virgil (2003) nor Livy(2002)) but interpreting it in this way does violence to the common usage of the sense of heroism and disrupts it by explicating the foundation: murdering the Other. Similarly, by explicating its reliance on the idea of utility, Girard's account of the need for a sacred sacrifice in the same chapter will be disrupted. This concern with the foundations is present throughout this thesis, yet the thesis is not purely concerned with engaging with these texts alone, but desires to do so in pursuit of an analysis of justice and suffering as related. This leads to an approach to reading that oscillates between making sense and theorising understanding. This process heavily underlines the process of formulating speech, the transition between being an alter and an ego.

Writing

Maybe the first question to answer is whether or not my speech is conventional and does it have to be conventional? Having only really considered the analysis of foundations of speech and an engagement with auspices or grounds, I have not yet paused to stress the inescapability of speech and the impossibility of 'linguaging', that is executing language as such, rather than executing it in the form of subjective, oriented speech which relies on the deep need for convention to be sensible. So, to answer the question concerning my own speech very briefly: yes, it must itself be conventional and it itself is grounded and oriented.

This necessity is illustrated by the terms alter and ego in the way that McHugh

et al use them (1974:4-6), but maybe, to already begin introducing terms used later in this thesis the alter and ego should be called the Other and the I. If we recover the concept of singularity used above we also get a sense of the relation between the I and the Other. As a self I am always necessarily *both* in two distinct ways: first, in order to be an I the singular must relate to an Other, but, in order for that singular to realise the Other it must recognise it as an I in its own right and become an Other to the Other. This might sound rather confusing, but it is, at heart, a means of describing a reciprocal relationship. Every actor is simultaneously an I and an Other; a reciprocal relationship, a dialogue for example, becomes a relation between two 'I/Other' singulars. If I regard the author of a text as an I to which the reader becomes an Other, then my exposition of this otherness becomes an I that will be read, or that will be received by an Other. Much the way in which I can express the foundations of a text, my process of expressing it, my own exposition, is conventional and has a foundation that is covered by its content. McHugh et al (1974:4) note this peculiarity of speech in various ways, most importantly noting that speaking already hides the speech's grounds and orientation. Maybe this resonates with Blum and McHugh's (1984) conception of self-centredness, where speech becomes concerned with speaking, rather than with expressing the auspices of that speech act. In this sense, this thesis is concerned with a topic, but in order to actually speak about the topic and theorise it, I cannot explicate what the foundations of this topic are. I can only talk of foundations when I talk of nothing else and even then my talk about foundations is again founded. But, in a sense, speech can achieve both, but never explicitly. Speaking the content conventionally explicates itself as speech, yet it requires a reader in order to be more than implicitly founded.

Writing then becomes the activity that connects my Otherness as reader to my self-centredness or orientation as author. Writing is where I can be conscious, that is, where I can expose, much in the way I do this very moment as these words are written and read. Writing aims to explicate my alterity to the sources, which includes myself explicating the grounds and foundations of their speech. But in order to be read as not merely a 'text' that delivers content, in order not to be read as a text without an I, or an authorless text, I need to explicate the presence of my foundations, even if I am unable to explicate my foundations as I speak. Put differently, realising my sources as I's and myself as an Other-to-them that seeks to be an I to Others, I begin to write as a singular

who explicates his speech as grounded in a shared conventionality. In writing I aim to open the text up as grounded, interested, and oriented.

In a sense it is this premise that this method aims to explicate: in a sense the method is also a pretext. It is a veil, a piece of fabric (*textile*), which aims to cover the foundation of what follows. This process of covering is prescriptive as it both makes the demand that there is something that is in fact covered and prescribes the interwoven premises of reading and writing through which the reader is, to some extent, forced to gaze. The intention of this chapter is not an explication of my foundations, but it aims to explicate the importance of its understanding of itself and its own conventionality. It gives the reader an orientation, provides a few examples of how this method relates to what is to follow, a way along which to encounter, recognise and reconsider the method and its phrasing of the possibility of the question. Its intention was to open up the thesis to interpretation. It is what Blum and McHugh (1979:10-14) call an invitation to strangers: I do not converse in the direct sense, so I can merely offer an invitation (both in this method as invitation to read the thesis from a particular premise and in the thesis itself as invitation to engage with its foundations as well as its content). Explicating this invitation, however, will be the aim of the Postscript.

3

COMMUNITY

INTRODUCTION

This chapter will try to be the prerequisite of the following chapter. Justice requires community, or at least this is what this thesis will argue. Justice is a communal virtue! The necessity of shared-being in this argument leads me to a problem of sequence. It is clear that this chapter would engage with the prerequisite of the next. Justice follows from community. Yet the sequence is complicated since justice is not a virtue that occurs at some point after community, but justice is a communal virtue. In other words, justice and community coincide and coextend. It is this co-occurrence that makes sequence in the spatial and in the temporal sense unrealistic. Justice implies community, but community implies justice.

Community will be discovered first, yet it is a problem in so far as I put the sequence in place and I create community as prior to justice. As a result I cannot talk of justice as if a prerequisite for community, which is surely imaginable and even a sensible claim, yet writing about both justice and community simultaneously will inevitably lead to confusion as I would presuppose concepts that are yet to be proposed. To this end, community will be considered to make justice possible. This chapter will be about community. It aims to solve the problem of a dichotomy: I and Other. In doing so it will also deal with the consequences of combining the I with the Other. The problem of the 'I' that is an individual in the sense of indivisible and absolute will form the first section of the chapter. In it, the ontological 'I' will be argued to be an

impossibility. However, the aim is not to either argue for a society of individuals that come together for a common cause or to remove the individual entirely, carving out some form of space for the self in some uniform mass of a union. Instead, the first part will deal with the self as singular rather than individual. The self will be argued to be conscious only as relation and in relation to the Other. This means that consciousness or *being* is 'shared' as it is nothing that is independent and every self is part of this sharing consciousness.

The second section of the chapter will try and elaborate on the type of community that exists as a result of shared-being in the sense of realising the self only ever in relation to the Other. Nancy describes this community as 'inoperative' in the sense that it is not a thing, it is not a work or product that comes into being, but it is a state of being. It does not rely on achieving something and does not need to, or cannot be operative. If shared-being *is* this community, then the community is the sharing. This means that community is not simply something that can be founded or can be destroyed, fought, lost or discovered: it *is* simply because people *are*. However, the inoperative community lacks any possibility for justice as the relation to others is essential and therefore 'empty'. The inoperative community exists in what Nancy calls the 'each time, just once' (1993:66), which is argued to be insufficient for justice since justice is understood as an action or achievement. In the same sentence Nancy talks of this each time, just once as a hollowing out of time and space around the moment of being-singular and being-in-common, a hollowing out that might indicate a sense of space which could conceivably be filled, so that community is not a particular 'content' but it is the time and space which might be understood as a 'vessel'. It will be argued that, what Nancy describes as the inoperative community, is better understood as the possibility or the grounds for community (rather than all that community could ever be).

The third section will engage with the problem of the loss of the individual and the form of community that can be described as *communion*: unified to the extent that the self is lost in the 'we' and becomes submerged and secondary to the common. The reason for dealing with this is that it recurs when justice and suffering are combined, be it in the form of communism or utilitarianism; this section will try and clarify the difference between a community that claims to be intimate, that is, share the self in a way that implies that everyone is the same and belongs to that sameness, and between

the community that consists of singulars, where there is no intimacy in the way that is comparable to lovers. In a broader sense, this section might question the dichotomy of the individual right over the communal good, as communion will be argued as impossible in much the same way as the individual is impossible.

Section four engages with language. Since the self will be reduced to being a relation to others, 'exposition' will remain the means of relating which brings language into the discussion as the possibility of being conscious. I will try to build on the distinction between statements, proposition and phrases in the way that Deleuze recounts some work of Foucault (1999). The argument will aim to show how the understanding of a person as singular is similar to the concept of statement, yet Deleuze's work attributes a certain regularity to statements that in many ways appears lacking in the writing of Nancy concerning singularity. The statement will be shown not just to rely on a relation that is essential but arbitrary, but the meaningfulness of a statement rests on a context that is operative. The concepts of the statement, of regularity and of multiplicity, will play a vital role in explaining where this sense of consistency of a singular self stems from.

The fifth section looks at permanence and boundaries. Where Nancy mainly regards the singular as spacing that is uttered and brought into existence through spacing alone I will argue that there is *regularity*. I will look at Deleuze's work on Foucault (1999) and Blum and McHugh's above mentioned concept of inescapable conventions (1984) to provide a place, rather than a mere spacing. The difference between a place and spacing will be elaborated. The spaces that singulars create in between each other will be argued to have a certain permanence, one that stretches beyond the specific singular both in time and space. This is what will be called the common-place (McHugh 2005:147).

The final section will move from this permanence, this place that will suddenly appear with boundaries and filled with members, towards Blum and McHugh's self-reflection. It will create a singular that has to share more than *being* as part of shared-being, yet is able to realise itself as existing only as and through sharing. It will theorise a member who can realise that he or she is a member of a common-place and can theorize the self's orientation in a place, towards and amongst Others. This part, even though not essentially part of the community, will be essential, both for the possibility

of justice and, more importantly, for the just sacrifice. This chapter will begin by revoking the self's absoluteness and will end by re-enabling the self, not to be absolute, but to be self-reflective.

SELF AND OTHER

Consciousness

The moment we begin to talk of the 'I' or the self, we imply a conscious actor. A being that is aware of itself. The statement that the self is aware of itself might be taken to imply that the self is independent. *Ego cogito, ergo sum*. I think therefore I am. This implicitly self-contained proclamation of a sceptic finds the unshakable foundations of knowledge in the self: the only certainty (Descartes 1996). Yet this understanding of the knowledge within presumes the self as given. If everything else can be doubted but myself then I presume that self to be independent and Descartes exclamation needs to be understood as a claim for a self that is not essentially social. If we pursue the foundations of this given self that is encountered in thought, we find two questions that remain to be answered: how and where? How do I first encounter myself and where do I encounter myself?

Let me simply consider the exclamation of Descartes. As exclamation, it does exactly that: ex – claim. It shouts *out*, much in the way that it exposes and explains. The out-with-the-self seems to be implied by the 'self' that speaks. Blum and McHugh's claim that any exposition (any action of the self to position itself outside or without the self) is both self-centred and oriented (1984:3). So Descartes' exposition was oriented and self-centred, both of which should be clear as it is read: oriented to the reader to whom it is written and centred around the self to which the very claim refers, even to the point of denying the reader as a possible illusion, if it were not for the self's thought. Any exposition of the self is still an action of a self, but an action that in any case has to be oriented toward others.

This stands in contrast with the objectivist premise that the self can remove itself from its own orientation: the self can objectively recover meaning because the self can become an object, that is, self-contained. However, regarding the self as a being that

exposes itself, the positivist claim seems to merely result in an *imposition* (as opposed to *exposition*). The scientist turns his or her own exposition around but presuming him- or herself to be absent. The exposition of truth speaks for itself. This assumption of the objectified world that exists and can be 'revealed' has been reduced to the world that is merely 'imposed'.

In other words, any self is only a conscious self by speaking or acting with and amongst others. 'I expose, therefore I am' could be our new catchphrase. But, similar to the 'I think, therefore I am' the greater issue that this assumption raises is the problem of coming to speak, think or act. The range of actions is given to the self by its essentially social nature and is constrained by language or the life-world. The life-world is a phenomenological concept that describes the impossibility of humans to observe anything 'objectively', that is outside of their own perspective. This curiosity of being human even stretches to the imagination where it is impossible to imagine any given object without a perspective: for example a rose. Any imaginary construction of a rose is always formed by perception and language: the self is taught the signifiers of a rose. This leads to the use of language in discovering the world and use of language as recounting, explaining, describing actions and 'reality'. The important note is that the language is not a mere occurrence contained in the life-world, but it is coextensive with the life-world. I *know* what I can *name*. Blum and McHugh stress this in de Saussure's work (1984:32), especially with reference to the sign and the signified as our only access to reality. The above sentence of being able to know what I can name makes no reference to an *object*, but only a reference to language and the self. Maybe, without reference to an object, we can take the sign signified relation of language a step further than the life-world or de Saussure. The concept of *trace* mentioned in the previous chapter widens this gap between knowing and reality even further. Knowing the signs that signify a rose does not establish a subjective connection with reality, since all the signs themselves are no clearer or closer to reality (Derrida 1976). Thorns, blossoms, rose hips, pinnate leaves, etc. are all themselves taught through teaching signs. Objective reality in this sense is not just inaccessible to us, but it is absent. The self exists merely within sign-signifier relations and the sign is our reality.

The loss of objectivity introduces a strong sense of the arbitrary. The objective, or the Truth that has been abandoned was also the main reference to order. We all agree

on what a rose is because it is a knowable *object*. We are now left with speech as more arbitrary, as not referring to an objective reality, but simply signifying; we are left with truth as arbitrary. All that order has become is agreement, which in turn becomes a social accomplishment. ‘Ego cogito, ergo sum’ is now lost but also retained. As my existence can only become realised as an exposition, this exposition relies on being intelligible, on happening within language. Even though the exclamation of the ‘I’ finding its foundation in the self as thinking has been argued against, the truth and intelligibility of the statement shows it to be an exposition that appears to make sense: even though it is argued against, the argument against still realises it to be a part of intelligible speech. In order to argue against the statement I must acknowledge its intelligibility. Its intelligibility entitles it to be a true as any other speech or exposition.

If I relate order to intelligibility though, then I must account for what meaning as construct, as mere agreement, is founded on. In other words, in spite of meaning (at this stage) being arbitrary, we require a foundation for meaning. First I will recount the premises for the necessity of order that follow from the above: First, the self is essentially social to the extent that the ‘I’ is implied in and implies the social. The self as conscious exists only as the exposition towards others. Any speech act or action has to therefore happen within language, which leads to the second premise that every such act is an act of exposition. This exposition is inter-subjective, so it is not merely a projection in the sense of throwing something out, but I have to expose myself in order to *be*.³ The third premise is that the ability to expose my *self* relies on language and my knowledge rests on my ability to speak. What needs to be explained is how speech requires some degree of order to be meaningful, i.e. the speaker must on some level be intelligible. To rephrase this: we have answered how and where the self is a social accomplishment, yet why it is, that is, the very possibility of this accomplishment as social (that is, between people that recognize each other as people and understand each other as speakers) remains to be answered.

³ Examples of solitude, of hermits or castaways might be considered as objecting to this, since they live without the social. But being *away* implies something to be away from, something to be in relation to, even if this relation is one of absence. The importance here is that the consciousness of that relation rests on these examples having been in relation in a more direct and social way (they have come from a place). A more extreme example might be infants raised by animals without any exposition to the social, but arguably these children remain unconscious in that state.

Deep Need for Convention and the Impossibility of Sovereignty

The question of order becomes the same as the question of knowledge and even meaning. Why is it that, in spite of any act of speech being oriented and self-centred there is communication? Or put differently, why is it that, once we exclude the ideal language user who is internal or contained to him- or herself when talking (i.e. separate from the world to which he or she talks) there remains a sense of a shared, rather than a shattered reality. To solve the order question Blum and McHugh consider the work of Wittgenstein (1984:36). But rather than aiming to elaborate the use of rules and the idea of rules as constructed, the focus remains on one exclamation of Wittgenstein: ‘those who speak of such “simple matters” as these (objects, mind, intention, even rules) “...are merely noting a convention.”’ (Blum and McHugh 1984:36) It is the *deep need for convention* that leads us to agree and to speak in a manner that is intelligible. But this *deep need* is a peculiar foundation since it has to be a part of that which it founds. It carves out a possibility for agreement and order in speech but it relies on that order itself.

The ungroundedness might need to be explained a little further. The manner in which the reality of signs was portrayed as shared implies that speaking shares something about which it talks. Wittgenstein’s deep need for convention allows speech to become the convention forming around circumstances. Language as conventions leads us to two forms of sharing: we share the deep need for convention and this results in sharing conventions. When I discuss with a friend a book we have recently read, we are able to talk meaningfully about that text. The deep need is that which makes this possible, but the deep need does not dictate any content, it only dictates that we must both feel as if our exposition has content. To this end, truth is an agreement, doubt is an agreement, even disagreement to some extent is, at a different level, a realisation that the disagreeing parties agree to follow the conventions that declare their disagreement and make it intelligible. The ‘deep need’, as I might abbreviate it, is not the meaning that is shared, but it is sharing the possibility of meaning. The deep need *is* having to be oriented in a reality. The deep need is having to know signs in order to know reality, whilst not dictating what signs have to be known. Consciousness is tied to the social through the deep need for conventions.

Calling the deep need *essential* as opposed to existential requires me to note two brief realisations: first, existence (as being conscious) is essentially linked to the deep need for conventions so that it is impossible to conceive of the self that is conscious yet completely unintelligible to him- or herself and/or to others; second, this thesis suffers from the same deep need for conventions and writes, exclaims and exposes a convention in much the same manner as all others, i.e. these very words are oriented within an inescapable need. In a sense the word ‘conscious’ makes sense now: the words ‘with’ (*con*) and ‘knowing’ (*scire*) joined to describe the self. The ‘with knowing’, so it has been argued, has to be understood both in the sense of ‘knowing with others’ and in the sense of ‘I with knowing’. It connects knowledge to others as the sign requires other to be taught and other to retain its intelligibility. We now have a concept of *conscious* that combines the self as oriented and self-centred to form an ‘I with Others’ that is not a dichotomy, but *essentially* compatible as a condition of *being*.

The I and Other as essentially linked and interdependent leaves the *self* no genuine escape from being related as any end of sharing also means the end of being.⁴ The understanding of the self as individual becomes an illusion since this understanding forgets the foundation or the possibility of that very concept: the possibility of articulating myself to be individual or absolute is only possible through my relation with others, turning the statement into a paradox. This paradox shows how being absolute and nothingness become the same. Nancy points out the difficulty of the concept of the absolute and *being* absolute as the self as individual would have to contain its own absoluteness within itself. Being absolute requires there to be no limit, no boundary, as such a boundary forms the edge of the absolute, which is an aspect of the absolute that is not contained but exposed. To clarify this abstract problem, if we imagine a circle jotted on a piece of paper and were to argue the content of the circle to be self-contained it would be a logical error: the content is contained, but the content is not ‘self’ contained as it is in fact contained by the circle. Much the same way the claim to be individual and absolute is a claim that merely draws a boundary around the self

⁴ Bataille offers us various escapes which he himself seemingly finds insufficient at times. These include excess and ecstasy as action that are meaningless and unintelligible and hence escape the relation to others (1998:189); poetry as a form of writing that is not reasonable or concerned with intelligibility, but that is passionate allowing the author to suffer the pain of rupture (1988:149); and, the ultimate escape, death (1998:189), which ironically is also the end of being in a way supporting the claim that escaping from relatedness also means escaping being.

that is still in relation to the others. The illusion of being self-contained is simply a change in relation, not its end. To be contained absolutely means to be absolutely alone: ‘to be absolutely alone, it is not enough that I be so; I must also be alone being alone – and that of course is contradictory.’ (Nancy 1991:4) Nancy argues the self not to be an individual, and he resonated Bataille’s ‘awakening’⁵ that being is never indivisible or absolute. ‘I am’ does not proclaim ‘Being *is*’ but ‘Being *me is/I am* a being’. This is the point at which the individuality gives way to the central concept of this chapter: being singular. The term being singular encapsulated the need for the self to be in relation with others in an intelligible manner in order to exist. It is a term that I use to describe the self as speaking with, through and amongst others. We can now begin to engage with shared-being as a foundation for community, relating the idea of the self as essentially social to the idea of sharing being. What remains to be seen is how we can move from the essential need for convention to the actual conventions that might come out of this deep need. But before it is important to understand the shared-being and the relation between the self and the Other.

COMMUNITY

Shared-Being - Community

The concept of sharing being as essential might arguably push the concept of community that results into the realm of sameness: if the basis of community is that each *being* is finite (bound by birth and death) and also shares a deep need for convention, then there might be no potential for differentiation. Yet, this would be a misunderstanding of being as exposition, since sharing being relies on the self as different from the Other. Being conscious in this sense distinctly differentiates the exposing self towards others. It does, however, create a shared reliance on others in order to actually be a self. The selves that are others to me. The existence of others as

⁵ ‘I wanted to be everything, so that falling into this void [the realisation of his own mortality], I might summon my courage and say to myself: “I am ashamed of having wanted to be everything, for I see now that it was to sleep.” From that moment begins the singular experience.’ (Bataille 1998:189) The image of sleep that is so similar to that of unconsciousness.

community is always in the space 'of the *I*'s, who are always *others*' (Nancy 1991:15). Yet being different does not negate sharing or undermine the possibility of community.

At this point it might be of use to recount the above: the concept of the singular being, is that of the being conscious. Consciousness is the relation of the self to the Other through the sharing of *being*, that is, the sharing of a deep need of convention. Consciousness as relation makes it clear why consciousness is always oriented, because it is always in relation to something other. Consciousness becomes exposure to others, 'which is to say that such a consciousness is never *mine*, but to the contrary, I only have it in and through community.' (Nancy 1991:19) This probably explicates the disempowerment of the individual stronger than before, and also implies consequences for justice. The relationship between the community and consciousness becomes one of spacing as they both create each other. Consciousness is community and all that community becomes is consciousness. Nancy stresses that this singular community is different from a collective unconscious, because it is the very consciousness that is shared, regardless of its clarity.

To relate this back to speaking: speech occurs in language, but language only ever *occurs* as speech. Speech as absolute, that is, as *true* in the sense representing an objective reality, is unthinkable. Speech as exposition is the spacing of the speaker to listeners, and it is language that gives space to speech. Spacing does not imply the same as a framework though, as a framework exists independent of its content. Language does not exist as an object, but exists as its execution through speech. Spacing simply notes alterity and relation: difference. It is the line between two points, points that only exist as the end of that line and a line that only connects the two points it creates. This image leaves open where the line is, how long it might be or what the distance between the points means. It describes the essential relatedness of being. It describes the deep need for convention in as much as the points only exist as the relation to one another and their existence depends on their difference. It is the exposition of the two points to each other that creates them; it is the very connection of the points that creates them. This is where language and community coincide. I *am* because of others as I can only speak through and with others.

We will specify in how far the singular community is inoperative, as Nancy argues, but the root of this inoperative aspect is starting to become clearer as it is similar

to the critique of an arbitrary language: where can we find meaning, when all that is shared is being, or is 'speaking'. So this leaves us with the realisation that *we all are*. All that community, or language, or more precisely, all that *sharing* being becomes is spacing: essential but also seemingly 'empty'. So far *being* as exposure of something shared, that is, the deep need, resembles a space, and not a place⁶. The exposure of the speaker as merely an essential 'point' has no sense of permanence or meaning, it is purely an exposure that originates from a point that is not placed, so it moves and changes merely in relation to the Other, in the spacing of points. Community, which is this spacing, is nothing more than this spacing. The space of community does not exist as a *thing*, but merely as the space of exposure. The community does not have a place that is shared so relatedness is arbitrary, uncommitted, accidental and essential. It is because of the singular community being founded in the singular consciousness as a relation, that 'the circumscription of a community, or better its *areality* ... is not a territory, but the areality of ecstasy [i.e. exposure], just as, reciprocally, the form of an ecstasy is that of a community.' (Nancy 1991:20)

This is the reality of Nancy's singular community. It boils down to being-in-common. This confronts us yet again with the problem of meaning, but this time, it is an issue that has to be resolved in order to find permanence, which is a sense of place. I am beginning to raise this issue of permanence as an ever more urgent concern, when to some authors the lack of permanence might in fact be desirable. Maybe, given McHugh's reading of him, Mark Taylor would urge me to stop and simply drift in empty space without direction or intention. (McHugh 1996) But the intention here is to find that which creates meaning, which actually allows us to commit (even if it is merely committing to a community that avoids commitment). In this sense this chapter claims that community *must* be more than spacing (especially when trying to conceive of a community that orients towards justice).

To explain this problem of spacing further, if the community is nothing other than shared-being, then it has no *being* of its own, but is simply spacing: I share my being with others by being spaced in relation to them. Sharing of being implies sharing a deep need, but, in the sense of aimless drifting, this deep need would not imply the

⁶ A place, unlike a space, is something that is 'filled' as opposed to 'empty', or put differently a place carries a stronger sense of *being* itself, rather than simply being as the consequence of relation. And in that sense, a place is a relation independent enough so that can itself be related to.

sharing of a convention, nor can it explain how and at what point I and another share a convention (as opposed to sharing a deep need). The community is infinite in the sense of being omnipresent, that is essential, but the presence is strictly part of being finite, or of being conscious. Community in Nancy's sense is like the horizon as it is both the limit of my vision, yet it is a limit that extends through my vision and never exists as a genuine boundary: I cannot reach my horizon and peer over it as it moves with me. The community extends infinitely to encompass every singular that appears, but it is finite since it is tied to the singulars and does not exist independent of those that share their being, much the way in which my horizon does not exist without me. But the deep need for convention would not be a deep need for convention if it would not result in actual particular conventions that form the observable reality, just like the horizon would not be a horizon if it would not rest as the boundary between that which I perceive and that which might lie beyond.

The self in a sense is the deep need and as such the singular is a foundation, yet one that, without the place has nowhere to found itself. The singular is its own foundation, which explains its inescapability, but the very condition of its foundation, the deep need, also founds conventions and with that the possibility for a place towards and within which to practice *being*. Nancy notes that there 'is nothing *behind* singularity—but there is, outside it and in it, the immaterial *and* material space that distributes it and shares it out as singularity' (Nancy 1991:27) Singularity as the foundation of its own being also introduces the self's limit. The Other encounters the self as exposure and as such encounters it only ever at the limit of itself, since the exposure does not extend beyond the Other. This only really means that the Other can never know the self since it exists only as exposition (there is no object *self*). This sense of limit is the unavoidable sense of boundary at which the 'I' touches the Other; that boundary that does not allow the Other to become an internal part of the self but only a relation. The spacing is comparable, or is in fact 'a division of sites' (Nancy 1991:29). If there is a boundary to the 'I' then this 'I' only exists as exposition, that is, as positioning the self at the edge and being recognized beyond that boundary. *Existence*, *ex – sisto*, to place or stand out: the synonym of the word exposition in the meaning of existence. 'I speak, and from then on I am—the being in me is—outside myself and in myself.' (Bataille, in Nancy 1991:31) We now have the limits of a self, we have the

foundations of a self and we have the foundation of a community that rests on that self, but that does not yet exist as anything other than the existence of selves. We have yet to discover the reality of a place, or put differently, we have yet to discover what this self can achieve.

Ironically, starting with the social as, in a sense, a social achievement as I *become* conscious through my relation to others, the singular so far is so devoid of content that it is no longer an achievement, but it is simply the possibility of an achievement. Trying to find a foundation the singular has lost sight of what it is a foundation of. The conscious is no longer an *accomplishment* of the social; this ‘infinite improbability’ (Bataille 1985:131) of being is not accomplished but merely occurs and its occurrence is marked by a lack of an alternative; the lack of ‘work’ or ‘production’ of consciousness. Community is *unworking*. ‘Community is not the work of singular beings, nor can it claim them as its works, just as communication is not a work or even an operation of singular beings, for community is simply their being’ (Nancy 1991:31). Consciousness as the singular, as exposure, as finitude is not an accomplishment, but it is the opposite, it is unworking and as such it is ‘inoperative’. A community is no longer an operation or function, but it *is*. The singular community shares being, it shares speech, but it does not need to share any particular set of conventions, but only the deep need for them. Yet another way to formulate the unworking and distinction between place and space is that, in Nancy’s account of the inoperative community, the ‘I’ and the Other do not resemble each other, they are singular, yet they relate through exposure. The distinction of resemblance and relation is the same as that of place and space.⁷

This makes Nancy’s inoperative community become an essential tie that is inoperative yet strong in a way that makes it resilient to any attempt to destroy community. Nancy talks of the concentration camps and extermination camps of Nazi Germany and claims them to be the will to destroy community, yet even in these camps community never ceased or stopped (Nancy 1991:35). Arguably community in the sense that Nancy talks of, he would have to agree, did not just survive internally

⁷ The three concepts relatedness, resemblance and sameness will be used throughout the rest of the chapter, but their use is illustrative and hopefully their meaning is intuitive. Relatedness describes Nancy’s sense of sharing-being as nothing more than an essential relatedness, no matter how different the two actors, their conventions, their practices. Resemblance is still vague, but even in relation to relatedness it might be clear that resemblance requires more than relatedness (complete opposites still relate, but do not resemble each other). Sameness is complete resemblance, possibly to the extent of no longer having to relate.

between the imprisoned and condemned, but also in relation to the captor and exterminator. The finger that pulls the trigger, the hand that opens the valve to murder the Other still exposes and the Other is (literally) exposed.

But, given this chapter's convergence of Nancy's singular as an essential relatedness with Blum and McHugh's deep need for convention I will eventually argue the self as singular to be more than merely shared essentially. I will eventually argue that Nancy's inoperative community does not describe community, but merely its necessity and its possibility. The community that will develop is one that is made possible by singularity, by unworking and by the deep need for convention, but only in so far as the shared-being is only shared if we actually attribute significance to *something* shared. As already said above, the deep need for convention has to be conventional and itself result in conventions. Or, put differently again, if the possibility for community is not a product or operation, it does not follow that the community cannot be operative. This distinction between the deep need for convention and convention and the distinction between being-singular as possibility rather than actuality will become clearer later.

To properly find what it is to share a convention I want to first engage with the concept of communion. If the singular community and the self as essentially shared shows the impossibility of the individual as absolute, it does not quite so clearly show why a community cannot simply be a universal, uniform convention in which every singular is shared completely and is itself just the substance of the community. In other words, if we are showing the self to be social, then why do we need a strong sense of self to conceive of a community?

COMMUNION

We have argued against the 'I' as individual and indivisible and replaced it with the singular that exists purely in and as relation. But what of the singular that might begin to resemble others? Was this once the case yet the emergence of the belief in the individual as detached and contained has destroyed community that once was? Is the loss of the individual a possibility for a community of *excessive resemblance*, a community of *sameness*, where the 'I' and the Other become same, become uniform?

Can we talk of a communion, now that the 'I' is no longer an individual? Can we return to a time before the 'I' was so prominent?

The desire for a communion is the second desire that comes from Bataille's sense of rupture, or being born as being born into discontinuity. I am only in relation to the Other simultaneously desiring to be a separate 'I' yet also to be the same as others. This sense of wanting to return to a way of being with others in which 'I' am no longer distinct is what Nancy describes as a sense of nostalgia: at any time a community looks back with a sense of nostalgia, regarding the fabric of a community lost, as tightly woven to the extent of becoming uniform (Nancy 1991:11).

It [communion] is constituted not only by a fair distribution of tasks and goods, or by a happy equilibrium of forces and authorities: it is made up principally of the sharing, diffusion, or impregnation of an identity by a plurality wherein each member identifies himself only through the supplementary mediation of his identification with the living body of the community. (Nancy 1991:9)

And this image of an intimate community creates images resembling a family, or familiarity. The community of the 'we the people': the 'I/We the people' where the 'I' that is born distant and alienated from the Other, finds and dissolves itself into a continuity. The 'I' that seemingly escapes finitude; a sentence that already hints both at the mirroring and symmetry with the individual 'I' and at its impossibility.

But Nancy's claim that we have always looked at the past believing it to have been more intimate than the present does not convincingly show why communion (i.e. the community of sameness) is either undesirable or impossible. Nostalgia only states that the self that discovers community in the present seems to realise it to be less than a communion. What makes communion impossible is that the conscious self realises itself as different, but related; a relation that appears conflicting and uneasy. This is a similar point to the one made above about the self only experiencing the Other through exposure making the Other never *known*. The self remains as ruptured between being absolute and being same. The self dreams of a time prior to the rupture, unable to recognise its own existence to be coextensive and coincidental with that very rupture. The communion is something that we then face only ever as hindsight, a looking back, maybe part of a 'making sense' where the singular is oriented in its gaze at a past of

which it is no longer a part. Communion is a myth. It is a myth since it exists only as an imagined past. A community in which the self can disappear, can cease to exist and cease to be conscious, is a myth; this connection and theme will become the focus of Chapter 5, where Bataille's sense of sacrifice, but also the idea of a utilitarian sacrifice will be connected with this nostalgia for communion and myth.

But, the communion as myth carries a symmetry with the individual, a symmetry that will carry over into the rest of the thesis: treating the 'I' as immanent, as contained within creates a sense of objectivity. The independent 'I' that speaks leaves a sense of place as it presumes circumstances and values existing *as they are* and not *as they are perceived*. The reliance on an objective reality in the case of the individual is similar to the sense of reality of the communion, where the 'I' that is absorbed becomes immanent, but not as self, but as the immanence of the community. The community becomes absolute as all its members become indistinguishable. The 'I' desires immanence that can be found when the 'I' is dissolved into the communion within and entire. In this sense singulars that are the same no longer need to relate to one another and a community of sameness is not a relation, but is to the independent absolute individual, that did not essentially relate. The orientation in sameness exists only as the orientation towards that very sameness and leaves the communion homogenous, in agreement, speaking truth through a unanimous orientation. This is why communion only ever really appears as a desire or a nostalgia: the 'I' as conscious and consciousness as the relation to others is impossible within the communion, so the 'I' cannot consciously exist. A communion excludes selves, it excludes *being* and consequently *being* excludes communion. As an extension to this we could summarise communion as 'that which excludes every community already constituted' (Blanchot in, Nancy 1991:7) This can be taken in two ways. Firstly communion confuses agreement with being absolute and homogenous and if we consider a plurality of communions each suffers from the same insufficiency associated with the individual. Secondly communion excludes the singular community as it excludes the singular. To summarise a point made above. The 'I' is essentially a relation, that is, it cannot be without relation, and the impossibility of sameness rests in exactly this necessity since the sameness of otherness is non-sensical. It would no longer put the 'I' in relation to the Other, but it would turn the self and other into the same.

Two points should be made clear in ruling out sameness as the essence of community: firstly, it leaves the community incapable of intimacy⁸; secondly, the failure of the community to be intimate still allows for intimacy and sameness, but between lovers, between particular singulars, unique to each other, as opposed to *other*. Blanchot writes of intimacy and what it entails and Bataille regards the lovers as closer to immanence as others, something Nancy picks up as well. Blanchot talks of the lovers of Arthurian legend: Tristan and Isolde. He describes love as the ‘infinite attention to the Other’ which ‘makes one a slave beyond any form of admitted servility’ (Blanchot 1988:43) An exposure to a degree that leaves the singulars in love removed from the world, that leaves them oriented towards each other in the instances in which they kiss, in which they touch: that moment in which their spacing, the exposure and experience of the Other’s limit, becomes a resemblance. Lovers, in the instances of passion, are no longer exposed to any Other, but to *the intimate Other*. If we consider love to be the infinite attention, then it has to be the sole exposure, two exposures that relate, but become, in a sense, absolute in their spacing. Two gazes that meet and in that moment forget the world within which they are. This explicates the impossibility of a communion of intimacy, a communion that allows for the infinite attention to Others (i.e. the plurality) without these ‘Others’ being collapsed into a One, the communion.

This is not the last instance in which *myth*, or more specifically, the myth of communion, will be dissolved. At the moment, community in the sense of communion stands unattainable, as an impossibility, yet, aspiring to it might still result in justice, even if it remains unattainable. The singular and the concept of community at the moment merely consist of a fickle yet profound spacing, little more and nothing less. The self is immaterial and exists as spacing which at the same time is community and exposition, which both the individual and the communion have been argued to try and deny by creating a place that is *absolute*. The ‘I’ in the community, the singular, is inoperative, is relation, ‘each time, just once.’

The only two concepts that might offer us a place (individuals and communions), that is a shared place in which singulars can meaningfully relate have been argued to be impossible. The individual as the self-contained being that relates to

⁸ Bataille realises this as he realises that resembling the victim of the sacrifice requires the sacrificers to die too (Nancy 1991:32). Intimacy cannot be a relation of a crowd to a victim, nor can it be the relation of members of a crowd.

others out of a choice has been argued to be impossible. The most central sense of relatedness in the singular community so far has been argued to be meaningless since it is essential and nothing about it is an accomplishment. Nancy (1991) has only left us with a community that only is community's possibility: the deep need. This possibility will be developed in two different directions: looking towards Deleuze's (1999) account of Foucault to find a sense of endurance and looking to McHugh's later work (2005) to then find a meaningful common-place.

STATEMENTS AND MULTIPLICITY

Nancy's concept of the singular has offered us a possibility for a community of singular-being, not of a community of individuals in the sense of a community consisting of atoms. This sense of community existing as the relation between singulars leaves a sense of void, of an emptiness until we finally fill this concept of possibility with that which it makes possible. I have on several occasions mentioned the need to conceptualise how the community given by the deep need is only a community if that deep need is more than an 'empty' concept. In other words, the singular community of this chapter is only a community once the relation between singulars is more than an abstract essential line, but it needs to be a graspable relation. The deep need for convention cannot be the sole convention, since this would no longer be a deep need. We are now getting back to the original problem of the possibility of speaking and the deep need for convention in language. And it will be in the conventionality of language where we find the operative part of community. This section tries to show how speaking always requires a sense of place (even if this place is distinctly different from an objective reality). Eventually we will require this sense of place as a prerequisite for any form of commitment since the community that is only an essential relation does not allow us to consider a committed self. In this parallel between the exposition and language the 'statement', as a concept, will become central. This requires more clarification though as the concept is used strictly in the *sense* that Deleuze made of Foucault's concept of statement, a concept that is opposed to the phrase and proposition. (Deleuze 1999) I will aim to recount this meaning of the concept, but again, in relation to the singular.

To begin with the concepts of statement, phrase/sentence and proposition (all of which are different ways of describing speech acts), then the statement is different because a phrase can be repeated and stand solitary. I can form sentences that repeat. I can form sentences that repeat. Yet the second iteration of the phrase forms a different statement than the first. The repeated sentence makes the point that I can in fact write sentences that are identical to one another, whilst the first is simply claiming that I can do so. The *statement* of the latter requires the first and both require a myriad of other statements and what could be called relations, or context. A proposition, in the way that Deleuze describes it, on the other hand is not repeatable, but it presumes a hierarchy of propositions, phrases, claims, and so on. A proposition is explicit and is never an origin or foundation. Proposing something always implies the existence of what is proposed prior to the proposition. Deleuze uses an example of Foucault's to illustrate what a statement is: 'A Z E R T' (Deleuze 1999:4). It is a statement about the order of the letters in the French alphabet as they appear on a typewriter. Or, is it now a statement about Foucault's concept? And if that was the statement that Deleuze made, what statement am I making with it? Regardless, I can repeat these letters as many times as I desire, but I will never make the exact same statement that Foucault made, and maybe he even made a different statement to *me* as opposed to another reader. What this is already hoping to show is that the concept of the singular could be related to the idea of the statement: the conscious self is conscious through its relation to other singulars much in the way that the statement is meaningful or intelligible only through its relation to other statements. A statement, much like a singular, cannot exist in a vacuum. We could take this parallel further and claim that the idea of a proposition relates to that of the individual (resting on the proposition referring to an external reality) and the concept of a phrase relates to the communion (allowing for sameness and homogeneity). Ultimately, what will become important is not only the relation between the two strands of arguments (the singular and the statement), but also that the singular in its essential exposition relies on statements as it relies on speaking meaningfully, so that the relation between these concepts is not just their similarity, but also their connectedness.

I want to spend a moment longer with the idea of phrases to develop all this further. Phrases can simply be repeated and repeated again, in no instance meaningful unless regarded as a statement and in that moment the meaning becomes a relation, that

is fragile, unrepeatable and in that sense singular. A sentence that is regarded to hold meaning because it is a sentence is an illusion: the meaning is not contained in it. A phrase argued to be self-contained claims to be objective, that is unrelated to anything other than itself, and in the case that one tries to regard phrases as objective they start to deny the existence of one another. The earth is flat. The earth is round. These two phrases have to be self-contained, yet reading both in succession it becomes clear that if they were self contained, how can they exist without also being a statement, or how can they exist as anything other than a statement where the context and with that their relation to another does not create a denial of one another but a relation to one another?

The proposition that is repeated, on the other hand, even though not occupying the same place, as is the case with phrases, will always supersede a previous proposition and replace it. The words ‘the earth is round’ could be understood as a proposition. Propositions, lending themselves to become abstractions, presume previous propositions. The proposition has to replace or build on another proposition and is a relation of hierarchy as a proposition describes an independent reality and aims to supersede previous propositions (such as, the ‘earth is flat’). A further example: The singular resembles the statement. Regarding this as phrase, proposition or statement puts these words into different *statements*. In other words, in order to be intelligible these words will have to be a statement, yet they can be seen as a phrase or proposition, which in itself would just be making a statement as the concept of a phrase is itself reliant on other statements. We can regard the statement as speech, and therefore as an instance of the deep need for convention.

But how do we get from this statement as an instance of convention that relies on being related to an idea of what these relations might be? In a sense statements expose, or are expositions in the sense that they are exclamations. In this sense statements are never absolute, since that absoluteness would imply that they state only what is internal to the statement, including that the statement is stated. This leaves us with a concept of speaking that is not reliant on a sense of a reality that goes beyond speech. It leaves us with the concept of trace mentioned above. The endless trails of signs and signification that form reality that is no longer merely the signification of an *object*. The relation is purely between speech and previous speech, expressions, exposures, and so on. Language becomes no longer some ‘whole’ or ‘complete’ world

of speech acts, but it is speaking and the speech's relations. Speaking is unrepeatable, unlike the idea of a phrase, as it, much like Blum and McHugh (1984) have argued, is always oriented, and it is as such always a relation. 'A statement always presents a transmission of particular elements distributed in a corresponding space.' (Deleuze 1999:5)

So far this section has returned to speech and exposition to more clearly begin to articulate the relation of speaking and the singular self. Speech is argued to happen in statements and the statement will now be further developed to account for the intelligibility of speech. Speaking will be more than the arbitrary exposition of a relating and spaced self, but it will be argued to rest on convention, context or trace. I will return one last time to the above-mentioned absence of permanence to now offer a solution to the problem. The statement as it stands is simply a relation and lacks resemblance to anything and only relates to a still empty concept of context, much like Nancy's inoperative community, the community that shared *being*, rather than any substantive or permanent convention. How can this community possibly be a home to justice? In the introduction to this chapter I have mentioned the problem of sequence when talking of community and justice and talking of one whilst explaining the other at a later point. The next chapter will go into detail about the specific concept of justice, but the problem of the singular that only allows spacing as opposed to a place is one for justice in general. Or, more particularly it is specific to distributive justice: how to distribute something, or, in other words, how to share something other than just *being* and *exposition* when everyone already *shares it*? Sharing *something* will be the result of what Nancy presumes to be community, but I, on a few occasions have referred to as the possibility of community: being singular. It will also rely on the concept of statement as integral to speaking.

Nancy, Blanchot and Bataille talk of intimacy and that this intimacy cannot be shared amongst many since all that community, or the community of singulars, can ever achieve is an intimacy of knowing that the 'Other' is also an 'I', that is, the community that shares being merely recognises the Other's humanity and finitude. Even though this might lead us to be able to talk of concepts of decency, that is, a minimum essential standard of treating Others in a way that recognises their singularity, it does not allow justice as sharing something. The image of lovers for Nancy invokes two singulars

exposing themselves passionately to each other and with that they show the community, within which they love, the limits of sharing, ‘the extremity of compearance.’ (Nancy 1991:38) This might make lovers people who communicate passionately. “Communication” only takes place *between two people who risk themselves,*’ (Bataille 1992:21) which might help explain the extent to which lovers are regarded as extreme, as exposing themselves to the extent of vulnerability, risking themselves. But does this really leave the self of the singular community to either *love* intimately or share nothing? And, even with the intimacy, what is it that is truly shared?

The questions that become so pressingly urgent: *how* do we share conventions as opposed to only the deep need for them? Can we share other things equally? *How* do lovers share it other than a community? The answers are scattered but they all bring us to the one concept that reoccurs in moments of sharing.

Lovers speak, and their overwhelmed words deflate and inflate at the same time the sentiment that moves them. For they transfer into duration something whose truth holds for the instant of a flash. (Bataille, in Nancy 1991:36)

like Bergsonian memory, a statement preserves itself within its own space and continues to exist while this space endures and is reconstituted (Deleuze 1999:6)

Lovers know joy in drowning in the instant of intimacy, but because this foundation is also their sharing and dividing since it is neither death [finitude] nor communion [resemblance]—but joy—even this in its turn is a singularity that exposes itself to the outside. (Nancy 1991:39)

Duration, preserving, drowning in the instant: all point towards the singular as more than drifting in the instantaneous. Instead we can see that the singular is related to duration or what I call permanence.⁹ Instead of trying to find permanence in a place, that is a place that is established by reality, by some inaccessible *object*, be this language or physical reality, place can be understood *as* permanence not just in space, but time. The three above quotes refer to permanence not of the *thing* or *object* that is related to, but a permanence, an endurance of *relation*. Lovers’ intimacy is intimate not because lovers share a place that is geographic, or because they both gaze at each other

⁹ ‘Permanence’ is used in a distinct sense of ‘enduring without major change’ rather than ‘the same indefinitely or infinitely’. This distinction is one between relative stability and essentialism.

knowing themselves to be *real* flesh and blood, but it is the permanence of relation, a relation that is neither forced nor arbitrary, but established, reconstituted, given endurance and ever increasing permanence. Of course not every relation becomes reconstituted and invigorated with the same passion, yet love without time, intimacy (or love) at first sight, generally seems humorous, and amorous only in retrospect (once time has passed, maybe with a sense of nostalgia). Lovers' passionate speech, their touches and gazes, smiles and tears, give duration to the lover's relation, give it intimacy and with that allows for their love, that is, their relation, to be *shared*. The second quote allows the same to occur with the statement, the singular and exposure. The third quote will allow us to talk about statements but allows a concept of joy (and misery) to flow from the singular as founded in sharing the exposition of one to the other over time. Nancy's words also distinguish this sense of sharing from both the insufficient, loose tie of finitude and the overwhelming, suffocating tie of the communion (where relation becomes impossible as all is same).

Using relation over sameness and creating a place in which relations might resemble each other over time, creating a place, but this place being merely made up of singular relations, allows the use of Deleuze's concept of regularity (1999:7). The regularity of relations allows for singularity that becomes meaningful without losing the *self* to a concept of the absolute. Regularity here simply refers to the conventionality of speech. Regular is other than same, but it implies a similarity that follows a pattern, rule or convention. Regularity in this sense also refers back to the deep need for conventions, for actions to follow rules. Deleuze's regularity describes the use of convention as 'in accordance with rules which are in themselves *variable* or *optional* and which allow us to define regularities but not homogeneities.' (Deleuze 1999:6) The sharing of relations and their regularity over time allows us to leave conventions as inescapable and regular (i.e. following rules), yet fluid, changing and in their specific use (of one convention over another) as optional. Regularity allows us a sense of stability in the else meaningless inescapable deep need for convention. Nancy's singular expression of 'just once, each time' reappears as permitting (as possibility but not essence) 'just once, each time *again*' referring to the reoccurrence and regularity of relations that allows to share something. Most importantly we can conceive of having to share something, but we are able to do so without having to prescribe a reality of what

is shared. What has been added to the deep need of convention is the statement as an articulation of conventions that exist through regular and repeated usage. This is any form of action or practice that we can formulate to be conventional. A greeting, voting in an election, driving safely, defending a taste of music, etc are all instances of conventions and they are all not sudden ungrounded appearances but follow a certain regularity and conventionality. The statement aided in this articulation by adding a concrete sense of context that gave a single exposition or statement a memory. An exposition can now signify more than its own essential necessity. The community is given a *memory*, that is, a regularity over time and this reunites this chapter with McHugh's exclamation that 'these elements [relations] fluctuate in complex varieties of speed and place and identity as "We the people" collects singular I's...' (2005:155). We have the possibility of a place: a meaningful, maintained relation to others, understanding the 'them' to be a part of the 'I' and the relation between this 'I' and 'Us' to be the 'Place'. There is a sense of being able to share something, but we are yet uncertain what is shared or how this general sense of sharing can potentially lead to justice (either as sharing justly or sharing a desire for justice). All we know is that we can theorise a group of singulars as a meaningful community that share something: a country committed to democracy, a sports club sharing a passion, an academic reading group. So far we have been unable to mention any of these example as a form of community as they are not just founded on the inoperative singular that enables consciousness, but they turn that consciousness into something operative.

Statements and singulars making statements become a part of other statements and this relation is a relation that can be reconstituted and given endurance. Statements at any given point will be part of a multiplicity. 'And not only is *each* statement in this way inseparable from a multiplicity..., but each statement is itself a multiplicity, not a structure or a system.' (*emphasis added*, Deleuze 1999:7) And given the relation of the singular to the statement, and the way in which speech and exposure have been argued to be a statement in each instance, multiplicity can be defined as the 'constitution of a substantive in which "multiple" ceases to be a predicate opposed to the One, or attributable to a subject identified as one.' (Deleuze 1999:13) This definition of multiplicity is almost identical with our definition of community as something that is no longer opposed to the self, but that is both shaped by the self and allows the self to be

shaped. This also means that the self is retained as a self through relations where the various relations are the essence of the self, but also never the same. The self is itself a multiplicity of exposures and statements, each statement being an expression of the singular's multiplicity. My own set of relations that constitute my self are not shared by any other self. The singular is neither individual nor same. The deep need for convention as shared because it *is* sharing gives us speech that is more than phrases, but statements. We can now conceptualise a shared multiplicity where selves form resembling relations: communication! Speech can be reciprocal as the orientation can be sustained and can be given regularity. The self can expose itself to the Other and that other can expose itself *back*. There is now a possibility for a *common-place*.

PLACES

We now need to work out a clearer sense of place. Sharing speech in the sense of communicating allows a sense of sharing beyond merely the ability of speech, but also a sense of sharing of what is spoken of. It allows for a distribution of exposure and the creation of shared *things*. The place is shared, there is a common-place within the singular community. This concept of the common-place as common through the regularity of exposition and relation can now be understood as nourishing in that it allows us to suggest a stronger sense of the singular. We can now see a self that can know itself to be more than just expositions; this self can know itself to be a painter, a friend, a lover, an athlete, kind, presumptuous, particular about food, wealthy, etc. When McHugh talks of the common-place, the place of equality (and of justice), where 'each is extended the nourishment of a particular place while also being, inevitably, part of that which is in common' (2005:138) and Raffel states that 'a person cannot be separated from a place in something like the way a fish cannot be separated from water.' (n. d.:4), we can relate this to the place as what gives the self permanence, that allows the self to be conscious of its *self*. Regularity nourishes and removing the self from this multiplicity, that is, denying the self the possibility to expose itself to others, is much like robbing a fish of its water.¹⁰ The common-place has quickly become an

¹⁰ The action of silencing the other and robbing them of their ability to speak is revisited in some more detail in Chapter 5.

essential part, and with that, a part that nourishes the self by giving it a place, rather than merely a spacing. The place allows the self to be singular, to act in the way it desires without losing consciousness.

To emphasise the reciprocity of the singular and the place, every act of speech invariably and inescapably is conventional and as such is both part of a multiplicity and itself a multiplicity. So any act of speaking, as far as it has to be a convention, is also in and of a common-place. The place is therefore not an independent object that nourishes but it is the place within which singulars expose and *are* allowing the place to only be as long as singulars practice the place. Much like there is no independent language *as such* there is no place *as such*. The concept of place is still founded on the deep need that was essential and absolute, yet the conventions (even though as a whole inescapable since they are the result of the deep need) are multiple and near infinite and show us the multiplicity of places. Since places rest on a sense of regularity and resemblance (but not on sameness) we can conceive of both the particularity of places and the particularity of others in places.

Particular places that nourish through food, housing, goods, luxuries, happiness, and joy can take many forms. These forms are not necessarily desirable, some are, some are not, but they all rely on shared conventions particular to a place. For Serres (1982) it can be a table top that nourishes two parasites, for Raffel (n. d.) it can be a home in which a stranger comes to relate intimately, elsewhere in Serres (1991) it is the city of Rome, and for McHugh (2005) it becomes the United States of America. This variation of places, each of these considered nourishing, and each the place of sharing conventions, shows the indefinite forms that this omnipresent necessity can take: countries, regions, cities, rooms, virtual transmission, cyberspaces, and anything else that allows singulars to expose themselves, and exposition that will always occur in time and space. This also means that each particular place is not essential and might disappear: each place needs to be reaffirmed and reconstituted through action, which makes each place an achievement in a sense that is compatible with the inoperative only as its foundation. Places have to be affirmed. Or, if we argue that the place of the singular community is where the community *happens*, that is, where the singulars share and communicate, it is community that needs to be affirmed in order to remain and not disappear. We can imagine people leaving a disappearing or changing place, finding

nourishment by replacing themselves; for example the political refugee who cannot find nourishment in a political regime, the migrant worker who does not find the nourishment in an economy or the artist drawn towards the nourishment of a community of fellow artists in a distant city. Given the centrality of place and the importance of singularity to places we can roughly divide the singular into three: the 'I', 'Others' and 'Place' meaning that the self exposes itself to Others within the common-place. 'In analysing actions in a community, we are analysing the relations among three parts: the place, the "us"..., and each "I"...' (Raffel 2004:17) The self, the Other and the place allow for the particularity.

If we have talked of places, and their particularity and multiplicity, we have yet to specify the boundaries of place.¹¹ We have portrayed conventions to be omnipresent and at the same time flexible, so that a break away from any conventional use of language or any conventional act, becomes merely a differently conventional act. The deep need of convention as a foundation does not have a boundary, but the place, or specific conventions, are different. A place has boundaries, but can I escape a place to such an extent that I am purely spacing or must I escape from place to place? Even the wanderer is conventional and drifts aimlessly from place to place: the regular movement does give him or her a sense of nourishment, a sense of a concrete self. This makes the convention regular and the regularity of convention essential to the extent that the singular cannot be without place, even if the self escapes from one into the other and becomes a stranger; it seems impossible to be 'absent'. So the deep need for conventions leads to the conventions and this also creates their boundaries. To this extent I can pass into another place, I can orient differently, I can expose myself to others differently if I so chose.

[The] person, exists within and moves among and between all of us and I and common place, creating for itself and others membranous passages that are variously an interior and an exterior, at times friendly, at times not; but in any case the boundary of I and us and common place is porous, more transparent than opaque, and omnirelevant parts of the person, a person who is I and us and common place all at once. (McHugh 2005:145)

¹¹ If this appears as an unnecessary task, then, considering the connection drawn in the next chapter between singularity, the singular community and the capacity for justice, we require this sense of boundary to understand justice in the non-universalist terms that it will be suggested. Boundary becomes the critical distinction between justice in a community and a global justice for everywhere/everyone.

But, if justice is tied to a place since it requires a sense of permanence, since it shares more than a deep need for convention, justice becomes variant, flexible and it seems as if we return to a sense in which justice can either be escaped or it becomes arbitrary and all that is required for justice is a sense of permanence. The rest of this thesis in one way or another will try to recover justice from having been reduced to merely a convention amongst many others. The community and self based on a deep need for convention and an essential relatedness leaves most justice theories without foundations as there is no longer an essentially independent selfish individual (libertarianism in general shares this outlook) or a independent society or community that is an objective reality in which the individual arises (communitarianism). The absoluteness of justice as some form of set principles cannot exist since it is placed or is conventional only as an exposition of singulars towards one another as singulars. But *what* justice is, the justice that is reaffirmed, will be argued to rely on the grounds of the singular community. But, as I have argued conventionality to be inescapable and objectivity to be an illusion, if I desire justice to be more than merely arbitrary, yet justice cannot escape being placed and conventional, the only escape might be found in what Blum and McHugh describe as self-reflection, that is, a sense of action and exposure that is not merely exposing, but orienting towards that action as exposition. The sense of community, and the sense of justice that is placed within it or follows from it, has to cease the attempts to escape either the *individual* (rights) or the *communal* (good).

SELF-REFLECTION

The first section of this chapter concerned the self and other. It established the concept of the deep need for convention and tried to establish the singular as inescapably conscious, yet conscious only through its exposition. This allows the singular to be an individual if it exposes itself under such a pretext, or the singular can expose it self under a pretext of sameness. In either case, it has been argued, the singular is still very much a self that exposes itself, that is, the person *is* only ever an ‘I’ in a ‘Place’ with the ‘Other’. Having started with Blum and McHugh (1984), considering a self that is inescapably tied into a world through being oriented and only conscious

through orienting, we now return to Blum and McHugh to consider a certain type of speech, which they propose to be theorising, that is, speech of an actor that is exposing itself as speech of the actor. For them, speech is founded in language, and, as I argued above, language is merely permanence given to speech so language as *inaccessible object* does not exist, but language is merely accessing speech with regularity. 'Language stands to speech as unity or a limit relates to multiplicity' (Blum and McHugh 1984:42). The important part is the singular as multiple and how multiplicity occurs within the limit that is set by the range of intelligible expositions (meaning both actions and speech). So we rejoin Blum and McHugh in the moment in which language becomes the *place* of speech.

What Blum and McHugh (1984) refer to as self-reflection is speech that exposes itself consciously, where consciousness means exposure. It is speech that recollects language, i.e. speaking in a manner that is conscious of the deep need that forms what we speak. Consciousness limits itself, as the limits of existence are the limits of exposure, beyond which there is nothing. The imagination is bound by what it can formulate: I cannot offer an example of something unimaginable, since that action would make it imagined. The *something* beyond the limit is exposed at the moment in which it is no longer nothing, and once exposed it is no longer beyond the limit, but the very limit. So, self-reflection cannot claim to place the self beyond its own limit. Instead, if we consider self-reflection to be *speaking consciously*, it becomes speaking or acting in a way that the self exposes itself as exposed and exposing, as placed and placing, as oriented and orienting itself. This consciousness of the possibility of consciousness is the self that speaks whilst explicating its foundations, its possibility of speaking. I speak and explicitly expose myself as placed and spaced, denying my speech the illusion of being absolute and even forcing those to which I expose myself to regard my speech as merely an exposition oriented towards them. I speak conscious of the Other as the possibility of that speech. Unlike the concept of the individual as absolute speaker or the communion as absolute denial of *the* speaker, we find a speaker who is singular and knowing his or her inability to resemble others exposes the self to the Other. Through exposition, this leaves the self explicitly related to those relations that place it, both coming from and going to the place, both placed and placing. It is important to note that the orientation towards others as a possibility of my speech does

not dictate the Other as the content of my speech, but it dictates the Other as the orientation. In other words I am always the centre from which I orient, yet it is oriented speech that allows the 'I' as the placed singular to be both *that* which orients and *what* it orients towards.

To conclude with a reformulation of the above: Only that which exposes can exist consciously as being and only what is exposed can ever exist as thing. Self-reflection is speech orienting towards itself, that is a self exposing itself as singular. If we recall the singular to *be* shared-being and shared-being relying on the person as simultaneously 'I', 'Place' and 'Other', self-reflection could be described as exposure that is self-locating and self-relating: in other words *conscious* choice. Self-reflection in this sense has to be different from recounting the self as individual in a biographical self-narration in which the 'I' is external. It cannot be a biography appended to an action, something that Blum and McHugh refer to as 'self-report' (1984:61). Instead, self-reflection must be a part of the speech, so that it explicates not what I did, in an attempt to show an origin of what I do, but instead it must explicate what *I am doing now* as placed. So, self-reflective speech orients towards its own possibility as intelligible, that is, as *exposure*. The self-reflective actor, or the self-reflective speech can follow a convention, but consciously, without a need for a cynical or estranged relation to that convention. For our need to find what makes justice possible in the singular community the concept of self-reflection allows the actor to share singularity in a meaningful rather than a merely essential way. It allows the singular to be a distinct 'I' that relates to others as explicitly spaced and shared. In this sense the self-reflective actor realises the inescapability of the Other, yet discovers *within* this inescapability the possibility for the *self* as *I*.

EX TRANSIRE

Going on out. At this point we are left with a sense of community that places the self or the actor as nothing other than a relation and spacing that is given permanence through itself as exposing and sharing relations with regularity and multiplicity. We have a community that, as its possibility, is inoperative and the essence of which makes operation possible. We have a community that is grounded on a deep need, a deep need

that results in conventions; the deep need is itself inoperative, yet the conventions allow its operation. Within this community we also have an actor who can be an agent to his or her actions and realise the action to be possible only because of others, but being chosen and undertaken because of the I.

Formulating justice has become possible, yet possible only in a form that makes it placed and needs it to be reconstituted and affirmed. But, leaving us with the possibility of this justice, we are also left with justice that has to be aware of itself as placed, and an action (or demand) that is considered just must be placed. It is explicating this placing of justice through justice that has lead us to self-reflection. This is made possible by the ability to speak exposing that act of speech as a singular exposition, given meaning and shared as a result of being *singular*, that is: being in-relation. The next chapter will aim to recount a form of justice that is exactly that: justice in relation and/or justice that relates.

4

JUSTICE

INTRODUCTION

If the previous chapter was concerned with community stressing its importance for the chapter on justice, then this chapter will try to tie justice to that community. The singular community that has been drawn out is not yet a just community per se, but it is a community that can share something, namely convention. I have used the term *shared-being* as an over-arching concept to describe sharing-finitude (Nancy's essential, inoperative, minimal community), to describe sharing-conventions (the result of the deep need for convention), and to describe the shared common-place. It was only in the final paragraphs of the previous chapter that we began to introduce the possibility of an active usage of *shared-being*. Why are the other usages passive? To share something can either describe 'having something in common' or 'making something common'. This chapter will begin to look at various forms of sharing in the active sense, and it will try and relate this active sharing to *sharing-being* in an active sense. The singular community I argued for in the previous chapter has become aware of its singularity in the section on self-reflection. Not only can it be understood as sharing-being in the passive sense of Nancy and even sharing-being as sharing a common-place and a set of conventions within the community, but the singular-community can slowly be understood as actively, knowingly, consciously sharing-being. The implications of this sense of singular community and shared-being will be engaged with in this chapter in relation to justice.

In this chapter on justice we will need to understand how this idea of the singular community, as opposed to the individual community (society) or the communion, can share-being actively and how this relates to equality and fairness. I will find an argument for this relation between equality, fairness, justice and sharing-being in McHugh's paper on affirmative action (2005). Aspects of this paper will be threaded throughout this chapter, which in many ways is a critical engagement with it, trying to outline McHugh's understanding of justice as foundational to the role that justice plays in this thesis.

The section 'Understanding Justice' will begin with showing why justice requires community. In a sense, this describes the *possibility* of justice. From then on the importance of sharing will make up the main analysis of this chapter. *Sharing-being*, which justice will be closely linked to, requires a commitment to equality. With this I do not mean a share that is exactly the same value or amount or worth as all the others, but that is equal, because it is fair. This centrality of fairness or equality to justice will inevitably lead me to detach justice from specific applications of it (such as utility, formal equality, equity) and argue *sharing-being* to be central to it. In the section 'The Actors' I will aim to exemplify the various forms of sharing outlined through various examples, but I will also begin to undermine certain ideals of justice by focusing on instances of a failure to share and I introduce the first examples of suffering. To this end the section will recount six characters: the stranger, the parasite, the coward, the soldier, the hero and the saint, all of which, in various ways, will play a role in the thesis overall.

UNDERSTANDING JUSTICE

The Distinction between the Moral and the Just

If we imagine a sole-survivor of some accident that is washed up on a beach of a deserted island, we can begin to wonder about the justice, or the impossibility of it, with regards to the solitary singular. It is indeed difficult to imagine either morality or justice in this situation. However, if we understand morality in the way that most philosophers would, that is as action guidance, we would assume that morality could exist. Morality

requires action guidance and is centred on the self, the singular. To illustrate, the three grand moral theories can theoretically work. The person could still be a utilitarian, let his or her actions be guided by Bentham's principle of utility, which states, that an action is good, and therefore right, when the results of all its consequences are overall good (1876:1-3). Alternatively the person might be an orthodox deontologist, assuming that Kant's categorical imperative is the most desirable action guidance, making the action right, and therefore good, when the maxim of that action can be generalized to be rightly, that is, rationally followed by all members of a community (Kant 1929). The last alternative that remains to our survivor is virtue ethics, in which case the person would aim towards an action that a virtuous actor would characteristically do (Hursthouse, in Crisp 1998:22). But looking back over them all, there might be morality on this deserted island, if the isolated, singular person adheres to any of these guidances.¹²

Alternatively it is possible to conceive of actions that are immoral, if the person is following any of these rules strictly. For example deliberate self-harm would hardly conform to any, or would actively contradict all of the above three moral standards, yet it is impossible to say that any action performed in solitude is unjust. 'Justice is a communal virtue' (McHugh 2005:149) and 'is the sole virtue that requires sharing' (McHugh 2005:140) and as such requires others, it requires sharing-being. 'For this same reason justice, alone of the virtues, is thought to be "another's good"' (Aristotle 2006:Bk5.2), which is impossible for the solitary self. Solitude does not deny being, of course, yet it denies sharing. Justice presupposes a plural of some sort.

If we extend this further and assume the island to be the place, even this place cannot be shared, can never become, what McHugh calls a common-place (2005:144). As has been discussed above a community requires sharing, something common, a sharing of both being and a place. It is a community that requires justice, that enables justice, as it requires sharing. This makes community into an inclusive and an exclusive concept, one that can expand and contract, and with it, sharing does the same. McHugh's example is the inclusion of blacks into the US community with the end of

¹² We could recount the story of Alexander Selkirk here, a Scottish sailor who spent four years and four months in solitude on the island Juan Fernandez before being rescued by Woodes Rogers. Rogers wrote an account of meeting Selkirk and how Selkirk told of his life on the island which talks of the pleasure taken in having been an exemplary Christian on the island: modest, praying, thankful. (Rogers, 1726:125-140)

slavery in the 19th century (2005). This example will feature a lot more later on, but for now, it is important to note that justice and community and sharing are necessarily linked and interdependent. Justice requires sharing, it is sharing, but also, sharing results in commonality, in a common-unity and a common-place. The problem will eventually become the activity of sharing.

Looking at the society (as in a group of individuals) as opposed to the singular community, I claim that a society does not require a sense of justice, nor does it require active sharing. People that are together need not be in-common, as long as they (passively) share their convention of individuality and jointly conceive of themselves as separate and independent. If we distinguish morality and justice as we did with the islander we realize that a society can be moral, even when it fails to share anything other than the convention for being moral. When I speak of sharing anything, the most foundational sharing is that of the place and being, sharing nourishment with each other. Morality, even though obviously connected with the concept of right and wrong or good and bad is a concept that is dependent on the self and self-referential. Morality orients towards the actor or the actor's action with regard to its adherence to a rule and, as such, morality does not require an orientation towards *others*, that is, fellow members of a community. Morality does not require the actor to theorise or understand the conventionality of a rule.

Margalit's description of the decent society, for example, as opposed to a just community, requires no communication or orientation towards the Other, but it requires the society to recognise the *humanity* of everyone (1996). There is nothing essentially moral in the decent society, surely, yet a just community requires more than merely the avoidance of institutional humiliation that Margalit describes as respect. A society that aims to be decent is aiming to be individualist, with respect for others, but without the willingness to share being. A society aiming to be moral is equally aiming to be individualist by focussing on the individual entitlement as a result of universal rules.¹³ The just community however, cannot exist without sharing.

Claiming that a community requires sharing and justice is sharing, moving from the impossibility of justice in the individual to the necessity of justice in the singular

¹³ Bentham's rule desires that each individual's pleasure or pain forms an equal part of the whole, Kant's rule stresses the importance of each individual's capacity to be rational and virtue ethics requires each individual to do what they consider to be virtuous or moderate good.

community, requires a sense of the just share, of what this equal share actually is. What is hopefully beginning to become apparent is that justice is concrete and real because it is actively sharing the singular (the I, Us and Place). Justice is not abstract, nor is it individual, it is not an unsubstantial claim, in the way that morality is occasionally understood. So when trying to define justice I argue that I have to consider how a community shares justly whatever it has, which includes resources, joy, suffering, etc.

The Fair Share 1

There are several ways in which sharing can be equal and fair. A basic example is probably a group of four people finding £20 lying in the street. All of them find the note in the same instant and make a claim to it near simultaneously. Important is that none of them knows each other, they know nothing about their being, that is, they merely know of their being as they encounter each other. They hold conventions common to them, such as a desire for money, adhering to the rules of a monetary system, and so on, but they might be oblivious to the conventionality of this. By this I mean that it is not necessary for any of them to question and engage with alternatives, they do not have to question if they actually need that money. All that matters is that they find something they all desire, but no one knows each other. In this example equally sharing, justly sharing, has to be a very formal division of £20 by four, making it £5 each.

Finding £20 and dividing it in any way will hardly ever be as problematic as a situation that poses the problem of dire scarcity. Some divisions might be more just or unjust than others, yet no one is 'worse off' than they were before no matter how the excess is divided. The most just division however remains an equal share that reflects the anonymity and presumed equality of those people that find the £20 note.

It is important to note that situations of scarcity create a problem where any equal division between everyone is either impossible or is harmful. Examples of this will be explained below in greater detail, but finding £20 is a situation of excess where the equal division between all people finding the money is also the most beneficial for all and most just. As long as an equal share leaves people without scarcity, there is no situation of scarcity. Scarcity is specifically a situation in which there is not enough for

every member of the community. This could be food in a period of famine, where, even if the food is equally distributed, in equal shares, no member of the community could survive. Scarcities demand an equality that does not rely on strictly equal portions, but in portions that leave everyone equally well considered and as many people as possible saved from the scarcity. This is what McHugh (2005) refers to as mechanical or formal justice, that is, justice that mechanically follows a rule, presuming all affected to be equal and equally considered. I will later argue the concern to maximise the benefit of available resources to be only one of the two aspects of mechanical or formal justice, namely: utility. Another aspect of this mechanical justice, what I will call lottery, plays only a minor role in McHugh's example, but is an equally, if not more, important aspect to formal justice.

To clarify we will spend a moment with McHugh's (2005:130) example of sharing resources in the first of his plane crash scenarios (Crash Story A). There are several main aspects to this. The first is of course scarcity in a very vivid reality. The rescuers cannot save every survivor; there are people that will die in this crash that have not died in the imminent aftermath of the accident. There will be survivors that will be left to die by the rescuers. This scarcity is both one of time, requiring fast decision, and one of resources and rescuers available. The second is the anonymity of the survivors. The rescuers find no familiar or particular faces in the wreckage, nor are they aware of any unrelated circumstances, such as the survivors that have family and those that are single and live by themselves, or survivors that suffer from terminal illnesses, or other such circumstances. The third is the accidental nature of the accident. There is no history to the accident, no sabotage by one of the survivors, no fault and no guilt, just victims.

As a result justice, that is the organization of resources that is fairest and most equal, is mechanical or formal. What McHugh (2005) argues to be the just course of action is a system of triage in which the severity of the conditions of all survivors is assessed and treatment is organized with the aim to save as many survivors as possible, treating each survivor as equally important and worth saving. As a result the least injured, who will survive for extensive amounts of time without treatment will be treated last and those survivors that require extensive attention without much hope of saving them are not treated at all, as instead, the same resources can be used to save

more lives elsewhere. This system of triage, and so its mechanical justice in situations of accidental scarcity, is guided by utility as a moral basis for the just organization of resources: aiming to save as many lives as possible. At this point we should explain the distinction I made above between utility and lottery.

Utility and Lottery

McHugh's Crash Story A (2005:130) focuses strongly on utility as justice in a formal and mechanical sense, rather than the second aspect I aim to identify, which is lottery. In the first instance I will aim to explain why McHugh's example of a plane crash is problematic for the case of lottery, but using several other examples I will aim to show the importance of lottery as an aspect to formal justice.

To spend another moment with the crash: it is obvious by now that the aim of the triage is to minimize the number of victims that will become casualties. However, in this specific case there is a complexity that other examples do not share with disasters such as these: the injuries are not equal. As a result triage is a complex system that divides the people that need to be treated into severity of condition and type of treatment required. Unless there are two individuals that require the exact same treatment with the same chances of survival with only one of them able to be treated as a result of the scarcity, lottery does not feature.

In a sense, utility is the first step in every instance of mechanical justice in which the scarcity is minimized, or, to put it differently, the available resources are maximized. The complexity of the triage case means that this maximizing of the available share is so complex that the arrangement that results is specific. The fair share is 'fair' because it saves most lives and none or very few people will perish because of chance. So when McHugh notes that sharing is not equal treatment but just consideration of each face (2005:150) what he seems to describe is the reality that some faces will need to be denied treatment, and the way to choose these unfortunate few is a triage to maximise the number of survivors. McHugh does not offer an example in which the equal consideration cannot be solved by utility, that is, by an obviously more beneficial organization.

When we consider the example of the famine above we have an example when utility does not allow us to make the choice about who is to survive and who is to perish. What utility does is make the choice of how many people can possibly survive. It is a case of quantifying the choice of survivors, which in the triage example excludes lottery only because there is only one particular choice to make that ensures the maximum share available. In the case of a famine, assuming each individual requires a similar amount of food for sustenance, once it has been determined how many people can survive, that is, once utility has quantified the amounts of survivors through equal consideration, the equality of the individuals leaves justice stranded. The equality of the individual's needs, the complete anonymity of faces in all aspects (including those reflected in the scarcity) means that equal consideration leads to a case where there are no differences that can aid equal sharing. The only just share is that of mere sustenance, yet this leaves a certain number without any part of the share, in spite of being as equal as the others. How to select those that will suffer if there is no utility to it?

Whereas in McHugh's example the person left to die could console him- or herself with the thought that their survival would have cost more lives, in the case of this famine, the survivor has to seek consolation exclusively with the knowledge that the decision was just, which leaves the question of what a just choice in such a case would be, where equal consideration is not aided by a more beneficial outcome either way. This is important to note for later, as McHugh's example for equity, namely affirmative action in favour of black people in terms of employment or spaces in higher education (2005:134) is a case where the choice over employing a white or a black applicant has no impact on the scarcity, or the size of the share.

I argue that in cases of completely equal consideration as justice, which is what McHugh calls mechanical justice or formal justice, it is not only utility that counts, but also lottery, that is the random selection of survivors unless there are other distinguishable differences that allow the increase of the available share. Unlike triage however, where the benefit is obvious and mechanical justice maximizes the lives saved, lottery is more difficult to be understood as just, as randomness, by its very nature, implies arbitrariness, which in turn seems to undermine justice. As a result, once lottery can be understood as another aspect to formal justice, maybe it becomes clear that the one important aspect is the equal consideration, or the just consideration of the

victims of a disaster that is important. The triage of the crash clouds the simplicity of the equal consideration with an obvious benefit: utility; but even once this is removed, the just consideration remains and hopefully becomes more obvious. That lottery is just another version of McHugh's understanding of mechanical justice is hopefully clear, and this is not a critique, but merely an attempt to clarify that the importance of mechanical justice is not saving as many lives as possible, but that it is the equal consideration of everyone, both in cases of utility and in cases of lottery.

Both the plane crash and the famine are obvious examples of scarcity, and in order to move away from the slight cliché of considering dire and heart-breaking examples, let us consider the joyous moment of finding some spare money, already mentioned above. What role does lottery and utility, and with that, equal consideration, play in cases of excess. If the group finds four £5 notes utility minimized the scarcity by dictating an equal division, and given that each individual is justly considered and anonymous, each person taking an equal share seems just. If the group finds £20 with no means to divide it we have created a situation of scarcity in which utility becomes unhelpful as each solution is giving £20 to a single person. Just consideration of each person requires equal consideration and as a result lottery becomes the method of organizing mechanical/formal justice. A popular solution could be to propose a challenge, for example a race or a quiz on general knowledge, as such a trial would generate a distinction where there was none before, but the justice of this would be doubtful as this distinction would be arbitrary, i.e. unrelated to the incident of finding money. There is no reason why faster people deserve money found in the street more than slower people, much like single people deserve to be treated as much as married people in the crash scenario. The simplicity of this example hopefully resolves any remaining confusion as to the possibility of formal justice: equal consideration of those affected.

Shared Suffering/Joy

Another aspect of McHugh's plane crash example, and with that, of all the other examples mentioned above, is the element of sharing not only the considerations involved in triage, but also the consequences of the plenitude or scarcity that result in

and from the fair share. Shared consideration is not the result of individuals nor is it the result of what the survivors desire or the casualties feared. Of course the singular, the individual, has a reaction, those that survive are glad and those that are left to die are most likely inconsolable (McHugh 2005:149), yet, in both cases they realize that this occasion is just, is the result of a just consideration and subsequent administration of scarcity (or excess). If a just survivor realizes an error in the lottery, or worse, an error in utility (an error of utility is assumed worse as there is a likelihood of a greater cost of life as a result, that is, a greater shared suffering), he or she might be glad to be alive, yet distraught at the cost of this mistake. Faults in lottery are much easier to bear as an arbitrary mistake in a random selection is of little difference and the sense of dissatisfaction of the survivor would not be related to the greater suffering, but to the individual that perished in his or her stead and the failure of the just consideration.

McHugh talks of this shared suffering in opposition to utilitarian individualism (2005:149) which helps me to underline the reason why his plane crash example might be misunderstood. As utility plays such a prominent role, it seems to distract from the shared suffering, the sense of caring for those lives that perished, as it is not merely chance that decided, but utility. The utility is not individual, it is the utility of the singular community, yet the surviving individual has an individual joy that goes beyond the shared suffering of a mere chance, of the 'I was as likely to perish as all those others' or to put it differently 'I have to face my mortality as directly as all others, I have to share my finitude.' The individual joy is the result of the triage system's utility, where I can claim that 'I was not as badly injured, so if I would have been left to die it would have been a waste', which is exactly the statement that McHugh seems to desire to undermine and argue against.

His understanding of the importance of the triage example is not the utility, but it is the shared suffering, the regret of the loss of the other faces in the moment in which the singular face lost to the common, the communal triage, the singular justice: The moment in which the *us* justly considers each *I* and all members of the accident, both rescuers and victims share the loss of those that are chosen to die, those that are sacrificed either to utility or to lottery. Those inconsolable at their own decided death and those gladdened by their survival share the common place of the triage in which each and every of these *I*'s is equal, not literally, but in the sense of equally considered,

of justly considered and as a result, justly administrated, or in a sense administered survival or death.

Shared being, so McHugh claims and I agree, includes all occasions of life, those in which *we* suffer and those in which there are benefits; those in which we are injured or starve and those in which we find or win money. There are moments when mechanical justice is sufficient to share all occasions fairly, yet mechanical justice fails to consider some circumstances, which are part of the complexity of being. The following example of McHugh creates a similar situation, where suffering is shared, yet it is neither utility nor lottery that chooses who is to suffer, but exactly those circumstance that are hard to treat justly *and* formally.

The Fair Share 2

To briefly recall the various aspects of the crash story: scarcity, anonymity and the accidental nature of it. This also applies for the famine example mentioned above, where the only difference was in the role of lottery and utility. Yet, McHugh offers us a case where these aspects change slightly, but to a great effect. Instead of scarcity and anonymity in the case of an accident, we now face a scarcity and *particular* anonymity (discussed further below) that is not accidental, but is the direct result of communal choices; in this case of the common-place's decision to expand and of previous indecent choices (that is, as Margalit (1996) would say, the institutional humiliation of other members of the society). The second story of McHugh that we will consider is the end of slavery in America. In fact, McHugh writes two stories about the end of slavery, but we will distinguish them later. First, they have a lot in common.

The end of slavery is described by McHugh as 'a vast pen, centuries old, at the moment its gates are opened for generations of captives to flee as they choose.' (2005:135) At this moment the slaves become ex-slaves and the community that kept them in the pen, the slaves' captors, the white faces¹⁴, expand their common-place by making a *promise* to share the equality of freedom. The end of slavery hence begins with a promise, rather than with an achievement. This promise is the word of the

¹⁴ When using the word *face* I am speaking of a singular or a self. The word face strongly implies both exposure and recognition; that is, if someone is a face it gives them an orientation and it makes them similar to myself. We all have faces, some of us look alike, but we are not identical.

singular community, which vows to recognise the expanded common-place, to expand the shared-being, to share with black faces the freedom to desire, and to pursue the desire of the new common-place. The promise does not simply promise decency, but equality and justice. Black and white faces are now ‘equal by principle’ (McHugh 2005:135) and as such part of the new *we* which is being formed. This is the expansion of the common-place to include the black faces into the nourishment of the place (rather than forcing them into a pen, into a boundary of a separate place that exists within the white space and is extorted for its nourishment). This expansion of the common-place, of the *we*, of the community, is achieved when all faces, even though distinguishable, are equal. That black faces remain distinguishable will be of importance in the next section. For now, there are two forms of triage that McHugh introduces.

The first story is one of mechanical or formal triage, of universal equality, where black faces are considered as equal in all occasions of life from the moment the pen was opened. As a result, positions in education and employment are awarded by utility, by the chances of success of the students or employees for the institution. The better the qualification, the better the chance of survival, the better the chance of being given the position. (McHugh 2005:134)

The second story is one of triage where equality is aided by what McHugh calls equity. Both black faces and white faces are triaged mechanically, with universal equality, yet, in the moment of employment a proportionate number of jobs is given to each of the two group: ex-masters and ex-slaves. Black and white should comprise “about the same proportion as their numbers in society” (McHugh 2005:134) as a result of this triage aided by equity.

This begs the question: what is equity? For McHugh equity is not opposing equality, it is nothing that tries to create a fairer state of inequality, but instead it is a modification of mechanical justice, of universal equality in order to achieve equality in a fairer and truer sense (2005:136). Aristotle, in his *Nicomachean Ethics* (2006), in Book 5 on justice, describes equity as “a correction of law where it is defective owing to its universality.” (Aristotle 2006:Bk5) Even though this makes equity appear more as a force that antagonises the universal, equity firmly supports the moral principle of the end of slavery and it also allows the triage to be interpreted as a reasonable rather than universal conformity to the promised equality. Formal justice and its universal view on

equality, its equality as mechanical calculus, leaves itself open to perpetuating injustice as a consequence of its own universality, that is the presumption that all applicants should be treated equal since they are equal.

The first slavery story orders and sorts triage by measuring the chances of success in an occasion of life, when it is exactly that occasion of life (education) that has not been equal as a consequence of slavery, the very condition that has been promised to be abolished. So let us consider why the first slavery story is potentially still just, but why triage modified and informed by equity could be argued to be fairer, or a necessary change.

The mechanical justice is very easily described, as universal laws tend to be: all are equal and positions will be equally awarded measured by a universal standard. Yet this presumes several preconditions: that this universal standard has been equally shared; that sharing being is only distributive; and that the end of slavery was accidental. As the end of slavery was not an accident but a communal decision to share freedom the problem of sharing raises more than a distributive standard. If we recall the story of the crash, which was accidental, the equality was one of distribution, of utility, of 'sharing hardships and rewards.' (McHugh 2005:137) What becomes crucial in the moment that equality and justice are no longer an accident, but a matter of collective choice, is that it becomes shared-being, or the realisation of co-existing with-each-other. It becomes the expansion of the life-world, the realisation of others, of black faces in this case, becoming part of the intersubjective experience of each other, which includes sharing language, history, traditions, myths, and such. More specifically, the end of slavery is not accidental because the moment the choice is made to end it, slavery and its finality become part of a shared history; it becomes the convergence of traditions, histories and myths, of masters and slaves. Opening the pen releases all black faces into the same common-place as white faces, requiring the white faces to share their place, its nourishment, its being-in-the-place with the black faces equally.

In the example of mechanical triage and formal justice it is still possible to see that the original intention was one of achieving equality: if we treat everyone equally, the disadvantaged former slaves will be treated no differently and can supposedly pursue happiness equally. But it still rests on the presumption of the achievement of equality of all faces as they become indistinguishable. Mechanical equality is the result

of a misguided assumption that the promise is fulfilled by granting freedom in a merely physical form (freedom from the pen), rather than the emancipation it promised when expanding the common-place. In other words, mechanical justice assumes black and white faces to be divided only in history, but indistinguishable by history. Moving the history of slavery into history that is past it becomes accidental, i.e. all related inequality becomes irresponsible and without cause, as all effects have long past into history.

For McHugh the end of slavery opened the pen, yet, being a promise, it failed to deliver such equality. The opening of the pen becomes the utterance of a promise that needs to be kept by continuously assessing how far it has been achieved or if achieving it remains a desire. Mechanical justice is portrayed as an attempt to fulfil the promise, but an attempt that has become questionably a failure. Entering the common-place the black faces were under-, if not unprepared. As the many, slowly progressing attempts at creating formal equality have not yet managed to shed this initial deficit, black faces remain disadvantaged in their attempts to pursue happiness. This chapter is not aiming to argue that formal equality is entirely unsuitable as a means to achieve equality and equal opportunities, but it is trying to undermine its standing as 'just' in itself. McHugh (2005) seems to suggest that the justice of formal equality lies in its desire to *share being*, that is, if it is a way to achieve the promise it is just, but if this becomes questionable, equity becomes a fair means of pursuing the promise, of affirming the promise, of explicating a desire for equality.

We can make a comparison between the accident and the historic promise that throws us back to consider the crash once more, as, through its accidental nature, it has no history and due to its threat to life it has no resources to consider any relevant histories, if there are any. The lack of other relevant circumstances in the plane crash means that equality is achieved prior to the accident. Yet slavery is not an accident, neither in the sense of having appeared spontaneously one day, nor in the sense of being accidental or without cause or effect, as the history of slavery is not a closed chapter or a fulfilled promise, it is not the history of achieved equality of emancipation and freedom. Slavery has a history, and that history is very much alive, which makes mechanical justice unsuitable as it has become too certain of its own justice. We could argue that mechanical justice does not understand itself as one of various ways to *share being* but understands *itself* as justice due to its universalism. The first slavery story

either sees mechanical equality treat slavery as accident or treat itself as justice, rather than a means of achieving it. Mechanical justice, in such cases of history and responsibility, through its commitment to formal equality (that is a commitment to itself over a commitment to the promise), only ever creates stability, but never change. So, as a final comment on mechanical justice, it could be argued that it can be just in circumstances where it does not orient towards itself (it does not understand itself as universal or immanent), but where it, instead, orients towards shared-being or the promise (which in McHugh's case can be argued to have originated in an orientation towards sharing being). It is only in cases where equality precedes the requirement for justice (that is in instances of accidental scarcity) where mechanical justice as orienting towards itself and as orienting towards shared-being seem to coincide

So, if we consider mechanical justice as unable to fulfil the promise, equity can be regarded as a means to achieve equality in a way that supports and enables formal equality. Equity can take concrete shape in policies of affirmative action, which aim to overcome such remainders of the past, the residue of slavery, but also newer forms of discrimination and intolerance that are not the result of slavery (McHugh 2005:147). The reason why affirmative action, in the sense of a policy of equitable justice in the form of quotas and such, is fair is its concern with shared-being and with being singular, which assumes the I and Us to be complimentary, rather than oppositional. The I requires the us in order to have any sense of self. Yet, justice in the form of mechanical triage has a tendency to be the justice of the I regardless of the us. I have slightly hinted at this by mentioning its danger to consider itself as immanent, that is just irrespective of place, rather than just purely as its relation to that place.

When we consider the shared-being and the community of singulars, justice cannot be ignorant of the shared history and the resulting share of both joy and suffering. Mechanical justice, in such cases, when its triage remains unaided by or opposed to equity, results in a denial of equality, a denial of being an equal part of the community as it denies the community as such. The white face is required to recognize the black face, not just as a face like any other, but as a face that is particular, that is singular as a result of the shared history and thus fairly deserves a particular treatment. This recognition of the particular will guide us on to discuss the role of anonymity, which remains one of the conditions that has not yet been discussed in any detail.

Justice and Anonymity

The final story completes the set. McHugh, when talking about the crash in Crash Story B, introduces a complication: the loss of anonymity. An unassuming rescuer uncovers the face of a mortal enemy amongst the victims scattered in the plane wreckage (McHugh 2005:129). For all it matters this might also be a loved one, their own spouse, child, or any unique face. The rescuer has the ability to deny treatment to the enemy or give preferential treatment to those close to him or her. It is this story that delivers a face that disrupts the anonymity.

Now that we have four stories, let us compare them once more, with anonymity and particularity in mind. The initial crash story offers us the complete anonymity that mechanical triage desires, also being the state in which justice is simplest. Both slavery stories feature a form of particularity where black faces are distinguishable from white faces and their history is made explicit in any encounter. The history, however, is part of the common-place, shared between all. It is shared as part of the singular community that ended slavery. The crash story involving the particular face is, at first, similar to slavery in that it introduces particularity, yet there are two differences to slavery that need to be considered in order to understand why in the slavery example equity is just and promoting equality and in the particular crash example, why special treatment would lead to injustice.

We can begin by drawing another distinction: the particular as different from the unique. Particular literally means a small part or share in its Latin original, describing a part of a whole, like black faces in a community. Unique, originating in the word *unicus* or *unus*, meaning singular or one, describes the familiar face more exact than the word particular, because the friend or enemy are not part of a whole, they are not a small share, but they stand alone, opposite the rescuer or employer.

This is the first instance in this thesis where we will draw a distinction between justice, which is argued to be relating to community, and intimacy, which will be argued to be the relation between singulars that relate to each other in ways that are more demanding than a community. Intimacy will be looked at in the chapter on self-sacrifice as a relation in which benevolence and excessive good are at home, and a relation in which justice as equality is lost to the concern for the Other.

What is the difficulty of the rescuer though and why is he or she somehow obliged to continue with the triage undisturbed by the appearance of a unique face? Where is the difference between the justice of the unique face in the crash, which should remain mechanical and formal, and the justice of the particular faces in the case of slavery, where formal justice should be modified by equity? In the crash example the particularity is unconnected to the accident as the enemy or friend is not injured as a result of their unique relationship. It is impossible to formulate a principle that would allow the rescuer to subvert the concern for the communal to indulge the concern for the unique. It is important to stress that a part of this impossibility rests on the person being a rescuer. If I were to survive a crash unharmed but my loved one was injured I would have no obligation to triage all the victims. It might be considered unfair not to take care of as many people as I could, but it might be considered uncaring to abandon my lover in wreckage to tend to strangers.

Another complication would be the rescuer becoming personally responsible for the injury or the severity of the injury of a crash victim. The rescuer hastily makes a mistake and moves a victim before stabilizing him or her and aggravates their suffering. The injury is no longer accidental, but it has a history. Yet, it remains hard to see justice if the rescuer would decide to give that victim a preferential space in the triage as justice is communal, yet their situation is between singulars. The option the rescuer might have is to acknowledge the particularity in another way: either by retiring as rescuer devoting his or her personal resource to the injury that is a direct result of his or her mistake, or by comforting, apologizing or explaining to the victim why they will not be aided by the triage and that it is his or her personal fault. Both would be hard choices, choices that would leave the moral actor distraught, as any such terrible mistake would. The first would be critical to the triage overall as it can never be a just principle to resign when a complication occurs. Justice is not an individual choice, but a communal commitment. The second would be just, but would leave the rescuer filled with regret and guilt.

In terms of justice then, anonymity is the simplest situation as it presumed the accidental nature of any scarcity and the lack of any history. The others that we do not know and do not recognize cannot have any history beyond the scarcity that makes us encounter them. So any perfectly anonymous scarcity is also accidental. It is the particular or unique faces that complicate justice, as these moments introduce a history,

either a communal and shared history or a personal history. The community is obliged to acknowledge particularity and the individual is able to acknowledge uniqueness, but they are different versions of affirming these different types of history. It would very impolite and probably offensive for a white face to uniquely acknowledge the communal history as if it were a personal history when employing a black face; if the white face would make affirmative action a personal action rather than a communal collective choice. Equally, it would be unjust for the rescuer to make the personal vendetta into a shared history. Equity in justice, modifying formality and universality, can only be understood as reasonable when there are particular faces and when that particularity signifies a relevant inequality. The unique, unlike the particular, is not part of the singular community and makes it impossible to formulate principles of justice. All that we can formulate are various forms of intimacy. In the unique crash example the rescuer might taunt the enemy, expressing his or her irritation that the enemy will be treated as a result of triage, yet an interference with the formal justice would be unjust. The rescuer can make the unique history known, yet, upon consideration the just rescuer would realize that differential treatment would not be a moral principle that is just, i.e. delivers a fair share.

THE ACTORS

Having outlined both a conception of justice and community relating to sharing I will briefly look at various characters that combine suffering and fairness. The first three will relate these two negatively: suffering as causing injustice. The latter three will try to relate these two positively: suffering as somehow *doing* justice. None of these cases are intended to be a solution of the problem of this thesis; instead they set the scene for the next three chapters that in various ways will engage with the intelligibility of relating justice, community and suffering in these ways.

The Stranger

We all *know* strangers. There are several degrees of strangers: those we never see and they never see us, the complete stranger; the passer by who sees you, yet you

never know; and strangers who walk past each other in the streets, they see each other, look at their faces, yet never really know anything about each other. The stranger is a passer by, regardless of what type is considered. But, to move away from this very narrow definition centred on the singular, the stranger in this case is the stranger to a community, and not the stranger in our community. The stranger is someone who not just enters but also exits our lives in the common place and is a stranger *here*. The stranger does not remain in a place, unless he or she is to become a part of the shared-being of a commonplace. This excludes strangers from certain obligations and rewards. For example, tourists pay no taxes, apart from the tax on purchases, tax from those instances when the tourist emerges into the community, as a stranger, yet generating a space between him- or herself and the community. The tourist does not receive state benefits of any sort though, yet, even though a stranger in this sense, he or she might be better known to members of this community than these members are to each other. The strangeness describes a state of passing, of restlessness in which the stranger does not contribute to the nourishment of the place to any degree more or less than what is taken. The stranger exchanges but does not share. As a further example, the common place does not nourish the stranger in the same way either: he or she is not awarded social benefits, national insurance, and so on. They have no obligation to integrate to any degree: they simply pass through the others.

What is most important with this is that a stranger, by definition, cannot act affirmatively, that is, the stranger cannot affirm the singular-plural of the community he or she passes through without remaining, without ceasing to be a stranger. In the process of passing through, the stranger has no obligation, requires no commitment. The stranger has no history or no shared-being. The stranger is anonymous. The beauty of history though, is that it follows time, and the longer a stranger remains, the longer he or she passes by, the more the place envelops the stranger and spacing turns into being placed. The restless stranger, however, is never obliged, yet never entitled.

In terms of justice, there is little a stranger could do beyond mechanical justice without the common place expanding and the stranger becoming part of the community. The stranger will still be saved in a disaster, will still be considered as part of the mechanical triage as everything beyond the injury is considered the same, is considered equal. The stranger can also become a rescuer in an emergency, but that is the extent to

which the stranger can get involved. The moment there is an incident that goes beyond the accidental, where equity is required, the stranger becomes a bystander who has not been extended the freedom that goes beyond that of passing through.

A stranger is in a state of courteous solitude, where he or she can pass along and exchange anything with the common place, yet, unless an unusual circumstance occurs, such as an accident like the plane crash, the stranger passes through without being nourished or nourishing the place in the way that shared being implies. The stranger is indifferent to the full implication of sharing being. The stranger does not have to share suffering nor is the stranger entitled to the same freedom. There is no need for the equality of the practices of the everyday life as the stranger does not share this everyday life. This makes the stranger aware of what this everyday life is. The stranger is aware of the norms and rules that occur in the common-place and is aware that these are rules that are followed for the rules' sake. As a result the stranger can also use this knowledge, this alien awareness of the Other. However, once the stranger moves into a home, finds a job or school, pays taxes, receives benefits and so on, he or she no longer exists as a stranger, a mere singular within the bounds of a strange place, but is part of the common place, is sharing being (and also begins to be part of the rules-following community). It is at this point that we can argue that the stranger, now no longer a stranger, should be subjected to justice.

Parasite

The parasite is fascinating, and forms of the parasite will reappear at later stages. First, however, a moment to describe what is meant when talking of the parasite. Stanley Raffel (n. d.) analyses the role of the parasite, looking at Serres' theories of social relations being intrinsically parasitic. A parasite lives in a place, yet is not part of that place in an affirming or committed manner. Raffel looks at Moliere's *Tartuffe* and the 'attempts to maintain the pretence that he [Tartuffe] is adhering to Christian principles even as it is impossible ... for us or even him to believe in the seriousness of his so-called Christian commitment.' (Raffel n. d.:6) To paraphrase this and to apply it to the concept of the community of singulars: A parasite attempts to maintain the

pretence of sharing being even as it is impossible for him- or herself to believe in the honesty of such a commitment.

Yet there are parasites with ill intent and those that seek no harm, merely the paradoxical nourishment of a common-place to which he or she is not common. One is the parasite that bites the hand that feeds it, the parasite that uses and moves on. The other stays in disguise, hidden and is eventually absorbed into the place, for they are nourished by the place as they attach to it for a principled reason; they will sooner or later cease to be estranged, wanting to have a productive role; they will sooner or later cease to be a parasite (Raffel n. d.:18-20). Max Frisch (1962), in his play *The Fire Raisers*, describes the unjust parasite, the parasite in motion, without attachment or commitment to the singular-plural. The play features a group of arsonists that can only be described as parasites in Serres' sense, as Raffel describes it: parasites of 'whorish promiscuity' (Raffel n. d.:20). They use Mr. Biedermann¹⁵, who opens his doors to fellows, to other members of the community in need of shelter, which is scarce. They move in and are perfectly agreeable and delightful (even if they are at times demanding odd items such as drums of fuel and various other items suspicious to the reader), yet plotting the destruction of the host that is nourishing them. Finally they set the building ablaze and the final scene unmasks the arsonists as devils. Both *Tartuffe* and *The Fire Raisers* are comedies, filled with irony, the irony of the hosts becoming accomplices in their own demise as the parasite subverts and destroys the shared being.

In a sense the parasite is far worse than a stranger, who is merely not part of the singular community, as the parasite destroys the shared-being by failing to share. The parasite is not a stranger that exchanges, but a member (in appearance more than anything else) that steals. The parasite, at least the promiscuous parasite, drains the singular members it encounters as these share their being with a non-reciprocal actor. The parasite leaves a victim of an injustice in its path, a victim who fed his or her own injustice. If we assume justice to be an equal share or a fair share, this is undermined by the parasite.

The parasite shares the ability to recognize rule-following to be little more than following rules and cynically creates an illusory performance of following these rules too, yet neither with the unawareness of a mere rule-follower nor with the orientation to

¹⁵ This name has some subtlety in German as *bieder* means concerning oneself with being inconspicuous, respectable and amenable. Biedermann is a common man.

the possibility of that rule in the community of a self-reflective actor. The parasite is deviant through his or her awareness of what is being done and the possibility of an alternative.¹⁶

Instead of being willing to share, and additionally, especially in the case of the arsonists, accepting the hospitality of someone who is willing to share the suffering, the parasite inflicts damage. Not only is there a refusal to share nourishment, to share that which is scarce, but by being parasitic the parasite damages the amount available to share by nourishing him- or herself. There are actors who might not be a stranger, yet they fail to be just as part of the shared being, doing so without damaging the share available.

Coward

The coward is not deceitful and quite possibly not even a coward in some common-sense understandings. If a coward were merely a person who lacks courage to undertake dangerous tasks, then it is surely not necessarily a negative term. In this example the coward is a member of the community and the cowardice is in reference to the coward's commonplace, where he or she is a coward. The coward, like the parasite is aware of an easier alternative that avoids suffering, yet does not use this knowledge to nourish him- or herself egoistically, but simply avoids suffering (still nourishing the place in other forms that are not considered suffering, making the coward a part of the community). As a result he or she is aware of the shared being and its demands. What makes the coward unlike the affirming member is that he or she is unwilling to justly affirm the shared-being with others when such an action would cause him- or herself risk or suffering. Maybe a very simple example would be the tax evader, but this would require specifying taxes as just. A better example could be linked to McHugh (2005) and affirming the white face that has to suffer for equity in the slavery example. The white face that does not get a position because it is given to a black face in the pursuit of equity and equality is of course not the coward. Even if that person is unhappily

¹⁶ McHugh describes this form of deviance in his article 'A Common-Sense Conception of Deviance' (1970) as relying on conventionality and theoreticity. The prior describes that the action was neither inevitable nor accidental and the latter described the awareness of an alternative, i.e. that the action was theorized as being more than a rule that has to be followed unquestioningly.

suffering, unhappy about suffering, it is not cowardly. The coward would avoid such a fate through the pursuit of personal security. The coward attempts to escape the suffering. The coward pursues the injustice of inequality if this is of benefit to him or herself. The coward is selfish. For example, the coward would not object to surviving because of improper triage in McHugh's plane crash examples.

In the sense it has been put forward here, the coward is not an unjust person in the same way as the parasite for example. The coward does not seek any further harm or destruction, but simply wants to save his or her skin. He or she exists with others, amongst others, never doubting the affinity to the common-place. The true extent of justice as affirming the community is not realized though as the coward shies away from the implications of shared being. Maybe the coward must be thought of as an individual, that is, someone who thinks themselves not dependent on the common-place and shared-being, but as placed out of convenience. The existence of the coward is akin to that of the parasite, yet it is free of deceit and does not seek to destroy the place. A coward is like every other member of a community until a situation of scarcity arises. A coward does not have to be greedy in a situation of excess, that is an entirely different case. The coward fails to deal with a situation in which suffering requires to be shared, and it needs to be shared by him or her. A coward shares nourishment, unlike the parasite, but fears suffering and is unable to share it. To this extent he or she would be glad to justly divide the £20 evenly and would most likely be happy with the triage or equity if it has no detrimental effect on him or her. But if he or she is selected to die from his or her injuries, or to starve, or not to get the position applied for, the coward loses his or her concept of justice in favour of self-indulgence.

Intermission

The examples so far all describe members (or strangers) that attempt to avoid justice and the implications of shared being. In a sense they are singulars, who are unwilling to live amongst people sharing being. The stranger has no reason to stop wandering by, no reason to suffer, to commit to the community. The parasite uses the singular-plural and destroys it through selfishness that can only be described as greed, which in most cases requires deceit. The coward does not destroy it, yet refuses to suffer

and tries to live amongst others without commitment. All of them are an example of actors avoiding commitment and avoiding suffering. This brief intermission serves merely to introduce the next three examples where I will consider the opposite and briefly describe those that suffer for the community. Are these sufferers victims to the community, is their suffering affirming shared being in the way that it was described in the plane crash and slavery examples?

Soldier

To begin talking about a soldier and justice let us imagine a just war. It might be hard to imagine such a war, yet the importance of this potentially mythical fight, is that it is a fight and that soldiers are in combat. As a result they are suffering injury and death, either in the city, or the countryside, defending what is dear to them. A just war has to be understood as defensive (Walzer 2006) by those fighting, especially when considering justice as an equal share in a common place and a war as trying to ensure the survival of the common place. What interests me with this example is the justice of the soldier's suffering, the soldier being a member of the community for which he or she suffers.

But the soldier is part of the shared being and has volunteered, or has been chosen, to defend the shared being, and with that, even defend justice, or the fair share. In the incident of a war, in which the soldiers are called to duty, they are chosen to potentially suffer as they are trained and qualified for the defence. If we are to return to the idea of mechanical justice, soldiers are called upon because they are the most likely to succeed in the defence of the common place. Sending soldiers into war is part of the utility. They are chosen to maximize the share and to minimize the suffering and scarcity, and it does make a lot more sense to send trained armed forces to the defence of the common place than say young school children. The problem arises when trying to establish if a soldier's death is just, much like the death of some of the crash victims in a case of successful triage is just.

The soldier is doing a job and his or her role is much more active than that of a crash victim. A soldier cannot possibly be a coward and still fulfil his or her duty, whereas a crash victim might not be given a choice to even be a coward, but is treated

and triaged passively. The soldier, even though sent into war as a result of triage, chooses to be a soldier. The soldier makes the choice to be trained to be the first to be triaged to suffer almost as if the crash victim that is beyond treatment chose to do so in order to maximize the share. The moment of war, when the soldiers are needed to defend the common place, when their suffering is asked of them, are following a call of duty.

Of course, the concept of a fair share does not end here. An army in itself does not guarantee a fair share and lives can be wasted by bad administration, by bad tactics, and bad leadership. But, let us assume the battles are fought competently and the casualties kept to a minimum. Yet it is those few that die whose deaths are accidental, yet the result of triage. But instead of turning a war into a further example of mechanical triage that features elements of anonymity, scarcity and a mixture between utility and lottery, my desire here was to look at the soldier, the individual as a sufferer.

This is where we have to think a moment if the soldier chooses to suffer out of a duty or if the soldier shares suffering. I argue that a soldier chooses the duty that might require suffering, but does not share suffering in the same sense as a fellow crash victim.¹⁷ A soldier might share the suffering with fellow fighters, but not with the community as a whole. I argue this mainly because war is not a shared occasion in the way that a plane crash is. The soldier is aware of the call of duty and is going to war not to share his or her suffering with others, but to defend the common place. The suffering of the soldier is a necessity and not justice (injustice). His or her death is never understood as just, but only ever as necessary in order to defend the common place. Soldiers that fall in defence of a common place, or in a war in general, are commemorated and praised as brave and heroic, as fulfilling a duty that requires suffering in order to protect the community.

The soldier is also unaware of an alternative and that the rules that are followed are questionable. This makes the soldier unlike the above three examples, since a soldier has to be a rule-follower, who cannot question authority. As such, the soldier is sent into war out of the necessity delivered by the just war, yet his or her suffering is not the result of justice, nor is it just itself. It is the result of the necessary defence of the common-place. As such, the soldier cannot be a self-reflective actor either. What justice

¹⁷ Schütz (1970) in his chapter *Sociological Inquiries* talks of the soldier as homecomer, describing him as having a very different understanding of home that leads to a misunderstanding and a failure to share.

can there be in any suffering that is the result of an action that is believed to be a duty without alternative, an action of necessity, not choice?

Hero

We could go so far as to talk of the soldier as the opposite of the stranger, in that the soldier follows rules and acts out of duty whereas the stranger is unaware of rules and acts freely: one is constrained by the community the other is free from community. If this is the case then the hero is the closest opposite to the coward. Unlike the coward, the hero is a sufferer, rather than someone who tries to avoid suffering, and unlike the coward, this suffering requires no element of theoreticity or conventionality, but simply any incentive to suffer for a cause. A hero does not simply suffer without reason, but suffers to aid others. Be it the superhero from comic books, such as Spiderman, Superman or Popeye or the real-life hero, people who save children out of burning buildings and climb into trees to rescue cats, the hero is someone who has a sense of morality.

There seems to be a certain recipe to becoming a hero: he or she is a gambler, exposing him- or herself to danger in order to aid others. Yet, the hero is a glorified individual, a singular that takes it upon him- or herself to risk suffering more than others. In a sense, the just community has no space for the hero, has no need for any person that suffers more than the just fair share. In such a community the hero could even be said to subvert shared-being by failing to share suffering but ‘selfishly’ suffering by him- or herself to protect others.

The hero is someone who is praised for successfully preventing others from suffering and, unless the hero is to become tragic, without suffering much him- or herself. This explains the gamble of the hero, the chance of either suffering greatly, which is not as heroic as avoiding suffering altogether, or the chance of failing compared to the chance of heroically saving others from suffering. The hero should also know the alternative of not having to be heroic, the foolishness of failure and the simplicity of inaction. I do not desire to make the hero a villain, a selfish gambler who does no good. Heroic deeds are desirable on occasion as the hero is the one person to

help the unfortunate when the dutiful rescuer (that is, rules of justice) is not at hand. For example, the hero that saves someone from a burning building replaces the fire-fighter.

The heroic act of suffering separates the hero from the community, as he or she becomes an individual, an exemplary example of outstanding bravery or generosity. The hero is not hidden amongst the others, is not one of many, but stands alone by being exemplary, that is exceptional. A superhero is admitted, yet, why do they all need an alter ego, a mask to hide their true identity, be it Peter Parker or Clark Kent? The hero is admired as separate, leaving him or her an individual in relation to a community, but not part of it. A singular at the limits. When we consider the crowd that gathers around a spectacle, the hero is in the centre, the hero is the spectacle. The hero only really exists in a community of individuals, an individualist society, where everyone is staring towards the hero seeing others, but sharing nothing apart from the orientation towards the Other. It is difficult to imagine a society of heroes, a community where every member is exemplary, because, by definition, the exemplary is not common or shared.

To compare the coward and the hero further: the hero does not deny the nourishment of the community, much like the coward nourishes the community, yet the hero is willing to risk suffering greatly and the coward seeks to avoid suffering altogether. Neither denies the importance of sharing being, but the one is overly eager and the other overly fearful.

On a final note, the examples I offered of heroic deeds might strike the reader as one-sided, focusing on accidents where there is little justice involved. It is in those cases, that the heroic action is desired, yet it is never just. In occasions of justice, for example slavery, the white face that would eagerly volunteer to be refused a job in favour of a black face, would not be justly doing so, but could only ever subvert fair triage, or, if the triage remains fair and the hero expresses merely an eagerness to suffer, then the problem I mentioned above arises: the shared history is made personal, that of a unique face, which makes his or her eagerness to suffer comic and rude, as if his or her suffering is more than simply fair, but an act of generosity.

Saint

The saint is selfless. This is probably the easiest way to distinguish him or her from the hero, who is still distinctly aware that there is a chance of avoiding suffering whilst helping others.¹⁸ The hero still knows the self, whereas the saint is a martyr, suffering, knowing it to be inevitable and extensive. The saint is willing to deliver the ultimate self-sacrifice for a community: to die for it. By this is not even meant to die for the survival for all others, no, the saint dies in its name, for his or her commitment to it.

Calling the saint selfless might be misleading however, since the saint, in spite of being ‘supposed to pay no regard to himself [should be] constantly preoccupied with himself, especially with the purity of his own motives’ (Margalit 1996:26). And even though this is described as a logical impossibility (being selfless by being preoccupied with the self) it makes sense in the saint’s case, as he or she is actively devoting¹⁹ their self to suffering for the community. The saint denies the self actively by nourishing without being nourished.

When we considered the parasite, I argued that the parasitic member takes nourishment, but is external and does not nourish the community. The saint is opposite: nourishing without taking. When considering the saint it is unusual to imagine someone who shares the joy of community. Instead, the saintly sufferer does not share joy in fear of taking any nourishment that might better serve someone else than him or her. This makes the saint far less desirable than a hero, since the saint truly fails to be part of the common-place. As with the hero, a community of saints sounds humorous at best, since it would be filled with excessive transgression. It would vaguely resemble the comedy of the rumour of Bataille’s attempted human sacrifice (1985:xx), where, as the story goes, each member of the sacred sect Acéphale desired to be sacrificed, yet none of them was willing to perform the deed. A community of saints would desire to suffer at any occasion, to nourish, yet nothing would ever be nourished. In a just community, where members share their suffering justly and fairly, the saint could not exist. If the saint is unable to live in a just community, how can his or her suffering be just?

¹⁸ A clearer distinction between the hero and the saint will be drawn in Chapter 7 where it is more important to differentiate the hero from the saint more precisely.

¹⁹ The etymology of devotion is to ‘vow away’ which again stresses the active denial of self and the saint giving him- or herself away.

A slightly more intriguing way of thinking of the saint is the saint that preserves the sacred in Bataille's sense: communication (Richardson 1994:35). The Christian saint for Bataille is disinterested in communication but overly concerned with salvation, which to him is a personal experience and can never affirm the community (Bataille 1994). Yet the saint that Bataille is looking for is the saint that transgresses in moments of sacred excess, losing all sense of rationality whilst being consumed by passion and ritual. Bataille's saint is the bringer of myth. In the moment that the saint sacrifices him- or herself there is a moment of plenitude in which the sacred self is no longer 'other', but the saint 'becomes' sacred in that moment of communication. That moment is the sacrifice, that fleeting, brief instant of the saint's demise.

This is something that could almost be agreed with, yet myth, as will be argued later, is problematic in a just community, in a community of shared-being. The saint, as I have described him or her, is disinterested in communication, disinterested in sharing, but overly concerned with salvation, just as the opposite, the parasite, is overly concerned with survival and well-being. Bataille's saint is equally failing to share-being in the moment of excessive sacrifice. The assumptions about plenitude in the moment of loss concern themselves with ideas of waste and excess, both of which seem unlikely in the cases of injustice that have been considered, where scarcity is crucial. The only excess, in a perverse sense, is human life, which creates the scarcity of food, treatments, positions in education and employments, etc.

Both understandings of the saint, in their moment of sacrifice, throw themselves into a faceless communion. No saint affirms the community, as much like the hero, the individual breaks away from the community to offer itself to the 'other'. This is where the sacrifice is introduced and the various forms of conceptualizing sacrifice lie open to analysis with respect to the above understandings of community and of justice.

In a sense the saint purifies violence. The saint becomes a sacrifice through the suffering and a saint is not a gambler like the hero, but submits to suffering. The saint, much like the hero can fail, but the failure is not the same. The saint fails when he or she does not suffer. The saint has to suffer to be a saint; the saint has to be sacred, and thus has to sacrifice. In the above sense of justice as a fair share the saint delivers nothing just, but merely an excessive waste, denying others their share of the suffering

and denying others to share their joy, something that might be considered desirable, but is doubtful when argued to be just.

As it stands, after considering the stranger, the parasite, the coward, the soldier, the hero and the saint, having considered their forms of suffering, none of them bring together a commitment to community, justice and sacrifice in a single act. The rest of this thesis will aim to find the self-reflective, just sacrifice: the sufferer that fairly shares being. The various forms of sacrifice will be considered again, some in more detail, others in different forms, yet the desired justice remains. Justice as a communal virtue that aims to administer and organize scarcities or excesses fairly: a virtue that communally and equally shares-being with all its aspects.

5

RITUAL SACRIFICE

INTRODUCTION

The thesis has so far introduced a strong version of community that discredited the individual society and the communion in favour of a community of singulars. It then went on to outline a particular understanding of justice, but instead of formulating a universal rule or overarching justice, the previous chapter closely tied justice to sharing-being in a particular way, which only loosely tied justice to any concrete example. What was argued to underlie justice was a desire to share-being; and recognising the singularity of being led me to argue that the desire to share singularity relies on justly sharing common-unity and common-place. But the last chapter finished with the introduction of the wider concern of this thesis. If the main concern would be to outline justice in a way that is closely tied to the concept of community, but that, as a result, appears broader and less concrete (since it does not offer a single ‘always just’ solution such as a list of inviolable rights), then the thesis would follow into an entirely different direction. I am not only concerned with justice though: it is its relation to suffering and to what extent the way in which we suffer in relation to a concept of justice actually justifies suffering. As a consequence this thesis, after setting the framework by outlining different understandings of community and different concrete examples of justice, will now move on to consider explicit demands on the members of a community made by the pursuit of either shared-being or justice (which will be argued not to be the same in some of the following cases).

Ritual Sacrifice is the rather dramatic title of this chapter, but at that, much like various concepts challenged in this chapter, its aim might be more to attract attention, rather than genuinely pursue a balanced engagement with the concept of a ritual sacrifice. What follows is not an anthropological account, nor is it an attempt at a complete theorisation of the topic. Instead, this chapter is concerned with an example in the extreme: I want to push the idea of suffering to the limits of its connection with justice, to the point at which we see some sense of community and a concern for justice in a near irrational way connected to excessive suffering. In short, the logic of this extreme example is to draw out the concept of communion and the defence of the communion against the previous charge of being too concerned with escaping the rupture of the self that Bataille introduced. Rather than purely accounting for ritual sacrifice, the only aspect of the spectacle and attention commanding act of suffering that is considered is its foundation in a communion (as opposed to a singular community) the moment it is connected to justice. A ritualised spectacle of suffering that claims to be just must occur in the community that conceives itself as a communion, and it will be argued that this illusionary conception is reiterated and kept alive by that very act of suffering.

To begin with, in the section 'Noises', the term ritual sacrifice will be given a brief working definition. When I say working definition I might be considered to be 'misdefining' or 'misrepresenting' the concept. The difficulty here is that the term ritual and the term sacrifice are often associated with religious or mythical ceremonies and there are bodies of work committed to understanding the ritual sacrifice in a meaningful way. I, on the other hand, am concerned with only a few specific aspects (that are probably not even central to the concept in its usual definition). The cause for this misdefining, or unorthodox and violent defining, is not a sign of disrespect but diverging orientations: I do not desire to write a thesis on rituals or ritual sacrifices, but I desire to *use* the concept. In this working definition, one of the aspects of importance looking at various examples of ritual murders, is a differentiation between a genuine sacrifice and a punishment, as, rather obviously, these words, even though closer associated than might be originally assumed, are distinct, especially with regards to justice.

The section ‘Coming Together’ will engage with the ritual sacrifice by theorising the community that justifies the suffering that is introduced. I will start by looking at the possibilities of the communion by engaging with Girard’s (1977) writing on sacred violence and Serres’ (1991) work on myths and foundations. This engagement tries to explicate the ritual sacrifice or suffering to be a part of the foundation of the communion.²⁰ Also, by looking at the idea of guilt, I will try to come to an understanding of the foundations of the claim of justice, or the justification of the suffering.

The section ‘Justification’ will engage with the connection to equality and utility, both of which were already part of the justice discussion, so their role in the ritual suffering and sacrifice are central to challenging the justice and the community in its relation to this suffering. The concept that will be introduced in the third section is silence, which is an extension of the idea that the communion’s conflated orientation, or created homogeneity, expels Otherness. This idea of silence, even though central in explicating the injustice that is justified (*made to appear just*) through the communion, will also be recovered in the final chapter as being more than merely unjust, but inhumane.

NOISES

The Spectacle

Sacrifices, by the very nature of their name, are linked to the sacred. And, beyond that link, they are also associated with rituals. As Henri Hubert and Marcel Mauss (1981) seem to show, by illustrating the close relation between sacrifice and ritual, there is both a multiplicity of various forms and shapes of sacrifices, yet, more importantly, there is also a common ground. I want to take this very point a little further.

²⁰ This idea of suffering has been implicitly introduced in the chapter on community when arguing the communion to rely on the conflation of the self. This implicit sense of communion murdering the singular self as conscious will be extensively engaged with here.

I assume that, as most of Hubert and Mauss' examples do, the sacrifice²¹ is always a ritual. The importance of the ritual is the adherence to a sequence and a devotion to repetition. As the first instance specifying a *working* definition I will use the term spectacle instead of ritual as it broadens and restricts what is meant. This might sound contradictory, but it broadens it in so far as slightly less meticulously followed or even unique instances of spectacle can be considered a sacrifice, yet it restricts and narrows ritual to the one important aspect: the gaze of the common. The word spectacle has several insightful meanings. The Latin *spectere* simply means to look. Words such as 'prospect', which simply mean to look forward, or 'spectator' which is an onlooker, show that a spectacle is simply something that is looked at. The German 'Spektakel' refers to a spectacle, yet also to noisiness. A spectacle attracts looks, it seeks the attention of all that are near, either by noise or by invoking a sense of spectacle, by being spectacular.

Girard writes about St. Peter's denial of Jesus (1989:150f) and documents, unknowingly, what I will take to be a spectacle. The story of the denial talks of Peter gathering around a fire amongst servants and guards of Jesus' interrogators. Peter is a stranger from Nazareth and steps into the courtyard, into the flickering shine of the fire 'where everyone could see him.' (Girard 1989:151) Peter becomes a spectacle, that is, he becomes visible to the others, by those that gather around the fire. Peter takes a central place and is identified as a stranger. The moment of identification as stranger coincides with the moment of stepping into the light, of being looked at.

Girard seems to misunderstand the spectacle though. Peter, for him, joins the group, or the community by stepping near the fire but is identified as stranger. 'Because everyone is facing the fire, they cannot avoid seeing each other' (Girard 1989:151). The fire to him becomes a place where people interact, where they are with-each-other. However, the moment Peter steps into the light, the moment Peter becomes a spectacle, no one looks at each other any more, but they become spectators. As he is identified by a girl as a stranger his *loud* and insistent denial of being a stranger draws the attention of those gathered (Mark 14:66-9, NIV UK). The spectacle unites the gaze and ends communication, ends community. What results is a division between the common and

²¹ Using the term *sacrifice* I will be forced to use it inconsistently, especially when it concerns the works of others. In this case I strictly mean sacrifices involving an element of the sacred, rather than the more general use of the word as a form of committed suffering.

the other. The spectators become an indistinguishable crowd. When Girard mentions they cannot avoid looking at each other I claim that the fire is what makes them not look at each other. Of course the fire illuminates their faces, it makes them present, rather than invisible, yet a community is more than mere visibility, or even proximity. The spectacle denies and distracts from the singularity of the spectators.

Nancy associates the spectacle with the sacrifice, where 'being together is defined as being-together-at-the-spectacle' (2000:58). The concept of the singular community has been understood as lacking a single focal point, a ruling orientation. Instead of this multiplicity of singulars, the spectacle offers only a crowd, a plural, and the Other at the centre of this mob. In its very nature the spectacle already seems at odds with the concept of the community of singulars at the basis of the justice as shared-being. We have spent quite some time talking about the singular community already, yet it needs to be clear that Girard's account of Peter does show that the concept of a community that is focused on spectacle ceased to interact in a communal way, but it could still be argued to be a common-place.

This leads us on to the understanding of sacrifice I wanted to consider. If we assume that, instead of a strictly ritual sacrifice, this chapter considers the spectacular sacrifice mentioned above, then we also need to consider the term sacrifice. Hubert and Mauss (1981) consider various forms of sacrifices, and, as already mentioned, they all fall into a religious and mystical category. These include animal sacrifices, food sacrifices, human sacrifices and so on. Yet, when the religious aspect is reluctantly removed from the definition, what becomes of it other than destruction or consumption?

Destruction is surely not the same as consumption, yet both appear profane, as opposed to sacred. Georges Bataille (1991) describes the society that is based around consumption, as opposed to production. This consumption centres around the excessive, around sacrifices and waste, which to him seem sacred in a broader sense.²² I will propose that this sanctity, even though described as an intimacy, relies on the spectacle in the case of the public sacrifice. Bataille's description of the Aztec human sacrifices, quoting Bernardino de Sahagún, describes a spectacle. Girard mentions Bataille's translation of the myth at the base of the Aztec sacrifice: the story of Nanauatzin and

²² Bataille's usage of *sacred* will be elaborated a little later. Important here is the connection of the sacrifice to the 'unproductive'. The sanctity of wasting something derives from the devotion to the moment, from being consumed to the moment.

Tecuciztecatl, the two gods that cast themselves into a fire (Girard 1989:57f). Nanauatzin becomes the sun and Tecuciztecatl became the moon. In order to feed the sun and keep it shining the Aztecs are required to sacrifice humans. This murder could be called a sacrifice, a waste, consumption or a production. Calling it production can only refer to the function of preserving the life-giving force of the sun, i.e. the sun being fed; the sacrifice as nourishing the place. The account of the gods' ascent to the skies is described as an offering, a self-sacrifice, rather than a creation or genesis (Girard 1989:56f). The sacrifices of victims to feed this god mimic the godly act of self-sacrifice, so they would mimic the sacrificial character.

Unlike consumption, where a *thing* is consumed in a functional manner, the sacrifice retains an intimacy between the sacrificer and the sacrificee. The victim remains as a *being* that is offered to violence. So the spectacular sacrifice does not seem to be a mere spectacular consumption, nor is it just a spectacular destruction, since a *thing* consumed or a *thing* destroyed are very much the same.

The sacrifice, for Bataille, restores something sacred: 'Servile use has made a *thing* (an *object*) of that which, in a deep sense, is of the same nature as the *subject*, is in relation to intimate participation with the subject.' (Bataille 1991:55) He talks of this intimacy between the sacrificer and the sacrificed and describes the intimacy as part of the sacrifice, where the victim is not a mere *thing* but a *being*. What makes the sacrifice sacred is not so much a sense of religion, but that very intimacy, that 'sacred communication' (Bataille 1991:59). This might romanticise the murder of a victim, but, much like Girard, Bataille argues that this sanctity brings people together. This sense of communion will be differentiated between the two authors later, but for now this closeness of spectators and the corresponding intimacy leave us with the sacrifice as a differentiation, much like the illumination of Peter at the fire of the anonymous crowd, the common. Yet, the victim of an act of public, of spectacular violence seems to require a certain closeness, an intimacy. The public act of violence has to engage, yet distinguish the crowd. The sacrifice with onlookers, performed under the common gaze, has to be spectacular.

To return to this sense of being *other*, it does not mean that the victim has to be *other*, yet his or her 'consumption' needs to be *other*. This is what makes the sacrifice a spectacle then, and, in a sense, what makes the violence a sacrifice is the spectacular

character of it. The sacrifice can and has to be called a spectacle. This is not just because the account talks of crowds and large festivities (Bataille 1991:50), but because a sacrifice has to be differentiated from the crowd and as such spectacular when committed in front of a crowd of *spectators*. In addition (and as possible consequence of the above), instead of sacrifice the term *violence* might be more applicable for the purposes of the chapter as I distinctly want to consider the spectacle that harms others, be it strangers or members of the community. Giving *things*, as opposed to *beings*, wasting them, is something that might briefly get mentioned, yet the suffering of the community is the focus. I have to stress that I do not suggest that violence and sacrifice are the same, however, spectacular violence is going to be considered sacrificial. If we then replace the *ritual sacrifice* with the *spectacular violence* we have established a much more plausible terminology, or a *working definition*.

This might just seem like a play with words, however, the conventional definition of ritual and of sacrifice exclude many of the examples that will be considered, both those of other authors and those of my own choosing. To revisit the above in summary: sacrifices can be spectacular, yet not strictly ritual, much like their sanctity does not rely on a holiness, but on being particular or *other*. Even though this chapter will then consider *spectacular violence*, this will still be referred to as a sacrifice, as collective murder and eventually as unjust suffering. As was mentioned in the introduction to this chapter, the aim is not to redefine ritual sacrifice; nor do I aim to clearly define a concrete subcategory of the overall concept of ritual sacrifice. Instead I have aimed to draw out the relevant aspects of the ritual sacrifices that will feature as examples. When speaking of relevance it is the aspects that are at the heart of the connection between justification, community and the violence itself.

The Punishment and the Sacrifice

On 2 March 1757 Damiens the regicide was condemned “to make the amande honorable before the main door of the Church of Paris”, where he was to be “taken and conveyed in a cart, wearing nothing but a shirt, holding a torch of burning wax weighing two pounds”; then, “in the said cart, to the Place de Grève, where, on a scaffold that will be erected there, the flesh will be torn from his breasts, arms, thighs and calves with red-hot pincers, his right hand, holding the knife with which he committed the said parricide, burnt with sulphur, and on those places where the

flesh will be torn away, poured molten lead, boiling oil, burning resin, wax and sulphur melted together and then his body drawn and quartered by four horses and his limbs and body consumed by fire, reduced to ashes and his ashes thrown to the winds.” [...]We have, then, a public execution... (Foucault 1991:3-7)

This account of Damiens’ execution, the well known opening to Foucault’s *Discipline and Punish* (1991), delivers a striking account of a punishment, yet, not just a punishment, but a violent punishment. It is nearly inconceivable how violent this punishment is, which makes it such an effective opening. Even though this extract does briefly mention the public nature of the punishment, the scene described here is not a sacrifice. It might seem as if the distinction between a public execution in eighteenth century France and an Aztec human sacrifice from the sixteenth century is an obvious one, yet my above usage of the *spectacular violence* seems to deny this clear difference. Where is this difference however?

He [the victim] was awaited at the top by the satraps or priests who were to kill him, and these now grabbed him by feet, hands and head, thrown on his back, the priest who had the stone knife buried it with a mighty thrust in the victim’s breast and, after drawing it out, thrust one hand into the opening and tore out the heart, which he at once offered to the sun. (Sahagún, in Bataille 1991:50)

One account is the violence in the sacrifice and the other the violence in the punishment. The victim is dragged or taken up to a raised viewpoint, to be in view, as if on a stage. There the violence is done to the person whilst the crowd looks at the spectacle. Unquestioningly the violence done varies between and amongst sacrifice and punishment. Some punishments are gruesome torture others are a simple, yet still violent execution. The sacrifice varies equally from immolation to a knife cutting out the heart. Both acts are violent and both are public. But are both spectacular? The festivities surrounding the Aztecs in Sahagún’s accounts used by Bataille show noise and spectators. Foucault’s account does not include the same. The account makes little mention of screaming masses, of a spectacular event, as if the observer was drawn into the gaze with the rest of the crowd.

Mohammed Bijeh, a convicted murderer executed in Iran in 2005, was watched by thousands as he was whipped and then slowly hanged.

The angry cheers filled the air as the court officials carried out the punishment of 100 lashes.

Bijeh was silent and still, but at one point his body shook visibly from the shock of the pain and he began falling down. His shirt soaking in blood, he was then brought down from the podium. As he walked up to the crane, the growing roar of the crowd mixed with the chant of the final prayer that mullahs read into the loudspeakers. (Antelava 2005)

The newspaper article quoted also makes several references to the ‘spectators’ making this a spectacle much like that of a sacrifice. Other execution accounts talk of different reactions of crowds, some of respect, others of anger. The crowd as gazing at the criminal and at the victim with an indistinguishable similarity. When considering crowds, an execution in Calais in 1884 attracted a said 15.000 spectators (n/a 1884), making it another spectacle.

Are acts of spectacular violence the same then? Or at least similar enough that they need not be differentiated? A public capital punishment is surely an act of spectacular violence. And, in a sense, it is therefore sacred, given the above claim that the spectacle is what makes it sacred, it is what makes it *other*. The spectacle ‘opened man’s eyes to the contemplation of the vexing reality, completely outside daily reality, which is given in the religious world this strange name: the *sacred*.’ (Bataille 1989:199) It is this reality that is so far removed from our daily life that defines the spectacle, or is the definition of the spectacle. This does not mean that the spectacular cannot occur on a daily basis, but it must retain its ability to tear people out of *their* life and attract their attention. It, even though this is deceptive, opens eyes. The deception blinds the opened eyes through the spectacle demanding their continuous gaze. To this end Bataille seems to lack any distinction between punishment, torture or sacrifice. The defining point seems to be excessive and exceptional violence. There is a case when the death is unspectacular, which Smith (1996:244f) recounts, when mentioning the execution of Balmerino, who went to his death calmly without humour, without defiance, without terror or fear. He died casually through decapitation and the crowd was unusually calm and quiet. This connection between the crowd and the victim underlines the intimacy mentioned in the previous section as the rebellious death leads to admiration of the spectators, the repentant death leads to pity, and the unrepentant leads to anger, such as in the example of Bijeh above. So, in the punishment, as in the sacrifice, what Bataille calls the *sacred*, being an *unreal* and intimate communication, is equally present, which deepens the symmetry of the punishment and the sacrifice.

Accepting this symmetry presents a problem: punishment makes an explicit claim of being just whereas sacrifice does not. Arguing about the justice of the spectacular violence of the ritual sacrifice does not include an explicit claim of it being just or fair. In the punishment the crime is the justification for the public violence. What I aim to describe is not the justifications for violence, I am not calling the offering to a God any more or less just than an offer to a legal system. The justice considered is the justice of suffering, of violence done to an individual that is a member of a community and in how far this violence is a just share. To clarify this a little before it will be explained in much greater detail in the rest of this chapter: there is an argument made by Girard (1977) that the spectacular violence, or sacred violence as he calls it, is necessary for a community as it prevents reciprocal violence, it protects the community from itself. The justice of this concept of utility that is proposed in all forms of spectacular violence is what I seek to challenge, not the question whether legal punishment is just or not. I can go along with the symmetry between the ritual sacrifice and public punishment as long as I regard that which Girard claims to be necessary: spectacular violence. So my concern is not with the justice of punishments, but with the justifications of spectacular violence.

There is another distinction that has to be acknowledged, as of course a punishment is ‘an authority’s infliction of a penalty ... on an offender ... for an offence,’ (Honderich 1969:1) which seems to differentiate the sacrifice, which is violence inflicted not as penalty for breaking a rule, but it is following some form of rule in its own right. In a sense punishment becomes *retribution* and sacrifice a *contribution*. Retribution is bestowing something ‘back’ (*re – tribute*), implying that something was previously taken. Contribution bestows something ‘with’ (*con – tribute*), implying that something is given together (even if by force). When the crowds shout out in anger or pity at the criminal, they shout out of reaction, a reaction to the action taken by the criminal. This action is the offence, or crime. When the crowds gather for the sacrifice they gather with admiration and the desire to act, that is, to feed a deity or to affirm hopes and desires. The crowd seeks nourishment in exchange for the sacrifice. They give the sacrifice in order to receive something for it. In this instance the punishment and the sacrifice become opposites. Taking back what has been taken as opposed to giving, hoping to be given back.

The two opposite orientations of the action still lead to very similar acts: spectacular violence. But to briefly introduce a third option, Girard's (1989) analysis of persecutions gives us another variation. Girard's 'collective resonances to persecutions' (1989:13) concern themselves with the public execution of unjustly prosecuted victims, for example witches. These, of course, behave much like penal punishments as they are legal, yet what makes it problematic is the lack of retribution. The victim's punishment is no longer a retribution, nor is it a contribution though. Nothing is given back by force nor is anything given by force, but the life is simply taken. The witch that is burnt is not burnt as a response to her actions, but as response to circumstances. The spectators develop the same feelings as with a punishment of a criminal and mobs have killed and murdered in a frenzied persecution.

The differences between various forms of spectacular violence that have been drawn out and the importance of their similarity and the specificity of their difference hopefully shows that acts of spectacular violence can be regarded as a sacrifice or communal suffering for the remainder of this chapter. As a result almost any example is relevant and underlines the argument that is to follow, as each example proposes that the spectacle is communal, bringing people together and that, in a sense, it is just, either by explication or implication. The use of the sacred to describe moments of exceptional violence and moments of intimate communication is the transition to the next section. The connection of the spectacle, of gazing at violence and suffering, could be seen as a form of sharing. Communication, intimate communication, as Bataille proposes, strongly suggests shared suffering in spectacular violence. Bataille and Girard seem to associate the sacred, violence and community, yet in very different ways. Both ways are problematic for both the community that has been proposed and for the concept of justice introduced in the previous chapter.

COMING TOGETHER

Founding Myth

In the account of spectacular violence offered by Girard (1977) there is an emphasis on the original murder. This murder is the foundation of the community; it is

the myth that creates the basis for the spectacle. When looking back at the community chapter we can already see how foundations in the sense of a specific event is at odds with the singular community argued to be founded on a deep need. Does a foundation that claims to create a community in a single event always rest on myth? And if it is, then what is the foundation of the myth itself and how far can we follow the trails of foundations? Founding the myth that is repeated and echoed in the acts of sacred violence that are to follow is where this chapter will really begin to regard the justice of spectacular violence.

Romulus and Remus, the renowned brothers, the renowned fathers of Rome deliver a story of foundation that is shrouded in myth and allows us to follow the tracks of the various mythical foundations that came before it. The founders of Rome will be our first epitomic example of a mythical foundation. Romulus and Remus were twins. They were the same, born mere moments after one another. That they are equals has to be stressed. They are the offspring of a vestal virgin and Mars, the god of war. Yet Livy (2002:34) lets us know that she was raped, and the mother's claim that Mars was the father was merely an attempt to hide her guilt and shame of being raped. Be it Mars or a rapist (or maybe Mars was the rapist), Romulus and Remus were conceived by an act of violence. Mars, the god of war, epitomizes violence. The act of raping a vestal virgin is an act that contaminates the sacred character of the supposedly pure virgin, who had devoted her life to Vesta, the goddess of the family and home. Romulus and Remus are the spawn of this contamination, the result of a profane act of violence, neither spectacular nor witnessed.

Yet who was this virgin, what was it that made her this pure priestess? Before Rome, the kingdom of Alba Longa ruled over the lands that later became Rome. Two kings ruled at the same time, brothers again, equals again. Numitor and Amulius were not twins however, yet the younger defied the hereditary rights and drove out his older brother, murdering Numitor's sons. The daughter, not being a threat to succession, was forced to become a vestal virgin leaving her to be without children, devoting herself to Vesta. The violent conception is preceded by a violent eviction: this unjustified act of violence that overthrows the heir without ritual or spectacle. We discover contamination previous to the rape, the rape being the result of Rhea Silvia, the said daughter, being forced to become a vestal priestess. The rape was a forceful, violent release from the

undesired fate. An act of violence regarded as godly, as divine: the children of Mars, the murderous offspring.

What follows is not just a story of foundation, but also of further violence. Violence that becomes both mimetic and reciprocal in the same instance. Romulus and Remus, when they were born and discovered to be likely successors to the throne, become a threat of reciprocal violence. Romulus and Remus are a potential challenge to the throne, so their death is ordered. Yet, they are merely abandoned and later found. Livy (2002) depicts Romulus and Remus as found by a she-wolf (*lupa*) and eventually found by a farmer Faustulus who takes the infants home to be raised by his wife, Larentia. Serres (1991:9), however, notes that the Latin *lupa* was synonymous with prostitute. Suckling the dry teats of a wolf, or perhaps a prostitute, they were raised to adulthood by a farmer. Once they were adults they aided their grandfather and they became instruments of reciprocal violence, murdering Amulius. Numitor became king as ‘the two brothers marched through the crowd at the head of their men and saluted their grandfather as king, and by a shout of unanimous consent his royal title was confirmed.’ (Livy 2002:36) We have spectators and an act of spectacular violence that is greeted with consent. Here is a moment of foundation, the foundation of sacred violence.

Romulus and Remus, the twins, are now redundant, their purpose of violence fulfilled, yet out of the moment of foundation of their grandfather’s comes the moment of foundation for themselves, as they leave to found a new settlement: the foundation of Rome is near through the mimicry of violence. The brothers begin to be too alike. Their desires become the same: two individuals yet only one city will be founded. It is a triviality that spoils the plans in the same way as had happened with their grandfather and his brother. (Livy 2002:36) Even Livy mentions the mimicry and echoes of the grandfather’s violence. Yet, Romulus and Remus are even more similar than their forebears. They have no birthright, no distinction giving the older a right over the younger so their trivial dispute (the details of which are not clarified) leads the two brothers and their individual followers asking the gods for advice and signs. Yet even these are inconclusive. Without other means of deciding, angry words, blows and the death of Remus occur as the two brothers and their respective followers seek confrontation. Livy dismisses the classic story of Romulus murdering Remus because

he had jumped over his half-built walls, cursing them, so that the violence is not even about the frustration of Romulus with Remus' attempts at subversion: the violence is caused by an unmentioned disagreement. Regardless, Remus is murdered in the eyes of a crowd that turns to Romulus unanimously as they did with Numitor. The death of the Other, the brother (who has now turned other, but was previously the same), becomes the moment of foundation, of bringing together a crowd to be a communion. The crowd, whether active or not, now stands undivided like the crowd of spectators at the ritual. Founding Rome was not just the foundation of the settlement, but also the foundation of the spectacles to follow.

After the murder of his brother, Romulus drags us further into the past, further along the trails of foundations, further into the mesh of mimetic murders and unanimity. 'Romulus's first act was to fortify the Palantine, the scene of his own upbringing. He offered sacrifice to the gods, using Alban forms except in the case of Hercules, where he followed the Greek ritual as instituted by Evander.' (Livy 2002:37) In the hills that bore the spawns of Mars, Hercules had murdered before, and again in an act of foundation. After the mighty hero had slain the Geyron, the monstrous other, and taken his cattle, he wandered through the lands where Rome was later to be founded. The murdering and thieving hero leads away his prize. Let us bear in mind the two concepts of Girard, difference and mimicry. We will discuss them in more detail after having made our way through the labyrinth of myths.

Hercules fell asleep in a field. His cattle wandered around freely. Cacus, son of Vulkan, came across the cattle and decided to steal four bulls and four heifers. (Virgil 2003:171). Dragging them by their tails the giant shepherd hid the animals in a cave. When Hercules awoke and noticed that some animals were missing, he ran to the nearest cave, yet only discovered tracks that led from there, as the cattle was dragged into the cave tail first. Finding this peculiar, yet not finding other tracks, Hercules began to lead the herd away considering the stolen animals lost (Livy 2002:38). Yet then, a cow bellowed, a voice called. Hercules, after Cacus fled into a deep cave, hunted down the thief, and the 'black bile of his fury rose in him [and he] caught [Cacus] in a grip and held him, forcing his eyes out of their sockets and squeezing his throat till the blood was dry in it.' (Virgil 2003:171-3) The thief murders the thief; the shepherd murders the

shepherd. Neither having a claim to the cattle, both making an identical claim. Like twins crossing the line between gemini and nemesis.

Cacus fell dead yet shouted to his friends for help. The mob gathered around Hercules, joined by Evander, the founder of myth and prescriber of justice. His influence is accounted for by his personality and not by any political right. He is an exile from a far away land and is 'revered for his invention of letters – a strange and wonderful thing to the rude uncultivated men amongst whom he dwelt.' (Livy 2002:38) Serres (1991) describes Evander as a legislator, and what a legislator he is. Rousseau (1762) would have revered him as a stranger that is wiser than any other with a hue of divinity about his decisions, being the son of a prophetess (Livy 2002:38). Evander sees Hercules and proclaims or prescribes the justice of the murder. Over the body of their friend and fellow shepherd the crowd gathers and listens to Evander as he raises his voice: 'Hercules, son of Jupiter, I bid you welcome.' The shepherds sacrifice a bull, raise an altar, worship the myth, and ritualize murder. (Livy 2002:38).

Evander's account of this murder to Aeneas, the Trojan hero, retells prescription. The murdered shepherd, the victim of Hercules' rage, becomes a savage monster that lives in a cave filled with warm blood and severed heads. Hercules, after the murder of this beast, is never attacked by a mob but instantly becomes a saviour with generations honouring his name (Virgil 2003:170-3). Cacus ceases to be a victim in Evander's prescriptive tale: the story becomes the unanimous murder of the victim. Hercules and Cacus turn from equals, from shepherds, cattle thieves of divine blood into opposites: the murderer and the murdered – the saviour and the beast. As the men gathered around Evander he recounts this tale to Aeneas; the men chant a hymn of Hercules, his murders of monsters. 'To end their hymn they sang of the cave of Cacus, and Cacus himself breathing fire, till the whole grove rang and all the hills re-echoed' (Virgil 2003:173) The echo of mobs and murders rang through these hills when the heifer bellowed, the echo of Hercules' club being driven against the failing body of Cacus, the words of Evander echoing in the crowd. The mimicry of this murder in the foundation of Rome (the murder by Romulus of Remus) is too obvious. 'Rome is founded on a murder, and this leads back to another murder. [...] He who enters the foundation enters a tomb; Rome is the city of tombs.' (Serres 1991:20f) 'Foundation is recurrent' (Serres 1991:263). Myth creates myth and denies the victim at its foundation.

It is Evander that writes myth and not the murder. So we find our trails of reciprocal murder: the temple to Hercules who murdered his fellow Cacus, the city to Romulus who murdered his fellow Remus. The children of gods, of Mars, Vulkan and Zeus took each other's their lives to found their communities.

Romulus' first act after the murder of Remus is to mimic the sacrifice of Evander in the name of Hercules at the temple. Echoes. Romulus, after the ritual, with the mob gathered, gives them laws, prescribes the laws over the body of the silenced victim, his peaceful brother, who then ceased to be a victim. What remains is Serres' tomb. The caskets of which are filled with buried, with silenced corpses. They are long forgotten victims of the often-recounted murders. Each corpse relates to a founding spectacle that only ever mimics another that preceded it.

The moment after the murder is a moment of momentary peace as the crowd that is gathered listens to the story told in that founding moment: the crowd that listens to the law-giving Evander or Romulus. A myth is a story told and an untold myth is no myth at all. This is Nancy's *familiar scene*: 'there is a gathering, and someone is telling a story. [...] the story of the beginning of the world, of the beginning of their assembling together, or of the beginning of the narrative itself [...] It is an ancient, immemorial scene, and it does not take place just once, but repeats itself indefinitely, with regularity' (1991:43f) and it is a scene at which the crowd that gathers gazes at the narrator who is visible to all, who stands aside, either raised or surrounded, on a hill or on a scaffold. Nancy's story as the story of the beginning that, in the myths described above, all start with murder. The narration as beginning follows a murder. Yet, the story of Rome, of Alba Longa, of the Herculean temple all tell of corpses yet never tell of victims. The murdered, the tombstones in the Roman graveyard, leave us wondering if the regularity of the mythical foundation and re-foundation does not become synonymous with ritual sacrifice: the spectacular violence that disrupts, but demands attention and covers its disruption. A foundation that mimics as much as any other; the foundation is seemingly identical to its affirmation in sacred sacrifice, and seemingly identical with the next foundation. Romulus' sacrifice to Hercules becomes the same as the murder of his brother Remus. Affirming Hercules becomes founding Rome.

The myth is the story of the end of violence, which does not make it the story that ends violence. But this distinction is something that Girard does not engage with,

so, for the time being, we can regard myth as the end of violence, the original sacrifice as the end of the sacrificial crisis. Even though Girard acknowledges that pure and impure violence are concepts that are vague and ‘even arbitrary’ (1977:40) the sacrificial crisis is the moment in which the sacrifice is undertaken improperly and contaminates the spectators. It is when spectacle becomes action. Hercules, our murderer has been part of such violence before. Returning home from his adventures he finds Lycus preparing to offer his family in sacrifice. Hercules is enraged and in a mad fury mistakes his loved ones for his enemy and slays them; his wife, Lycus and his children. He is equally enraged in the murder of Cacus and without Evander’s calming words this rage would have led to the contamination of the spectators: the angry crowd of shepherds that knew Cacus.

This crisis relies on reciprocity and the loss of difference. The loss of difference is both the distinction between pure and impure violence and the distinction between those that act violently. The twin becomes Girard’s case in point. Romulus and Remus as the brothers where the lack of difference becomes the cause of strife, the cause of the murder. Yet that murder ends the crisis, but why?

Both Romulus and Remus are born equals and even equally born. Their hereditary rites are equal; this leaves their violence as impure, neither having prescriptive cause to violence. When they ask the gods for signs about who is right, one of them sees the divine sign first, yet the other sees a grander sign. The twins become each others’ nemesis. *Nemesis*: to give what is due. Nemesis is the desire for retribution. Retribution as the loss of the sacred: reciprocal punishment and revenge. It is the moment of murder, the moment when Romulus not only is the numerous, but is the only. When the twin, the double, becomes the single the difference is re-established. Their equal desire and equal claim creates the problem of reciprocal violence, or retribution.²³

Hercules and Cacus are much the same; a similarity already mentioned. They are equals, equally enraged, equally thieves, equally divine and equally shepherds. This similarity, this equal claim, leads to the violence. The end of violence is the death of the Other. In both cases the violence is ended by Evander, by prescription, in one way or

²³ I have spent some time with the equal claims to something indivisible in the previous chapter where I offered lottery as a just solution, but Hercules and Cacus or Romulus and Remus drawing straws would make a less spectacular foundation to a myth.

another. If the lack of difference is the cause of violence, then the death of the Other should establish the difference that is required to end violence. The difference between pure and impure violence relies on the death of the impurity. What is an impurity? What is a contamination? It is something that is deemed not to belong or something that does not fit. What clarifies the purity of violence is violence done to the impurity. With these words we begin to explicate a paradox that will recur, much like the foundational myth, the 'original' murder recurs.

Violence of twins that requires similarity and sameness seems a counter-intuitive concept though, since violence implies difference and dispute. Violence is force, but not a force that flows with, but against the other. Romulus and Remus leave Alba Longa together. They walk the same road, they follow the same direction, they aim towards the same foundation. A sameness destroyed by 'jealousy and ambition.' (Livy 2002:36) Does the violence differentiate, or does difference cause the violence? We return to the concept of sharing, as 'brothers are simultaneously drawn together and driven apart by something they both ardently desire and which they will not or cannot share' (Girard 1977:63). This inability to share results in difference and the distinction between the sufferer and the survivor. Is the inability to share something that is desired equally the cause of the sacrificial crisis? If this is the case, then the sameness is reduced to the equal claim: the sameness and reciprocity in the desire. We are beginning to differentiate sameness, by talking of it as a failing to share a desire (opposing equal claims) and as failing to differentiate each other (a crisis of the self as singular).

Yet, Girard makes a further claim that causes a problem for Romulus. The murder of Remus can only be described as a violent effacement of difference: the cause of the violence is the lack of difference, which is explicated by the two mobs meeting and Remus being slain in a quarrel. Yet this very effacement, which creates a difference, does not 'reach out to destroy a whole society' (Girard 1977:64) but results in the foundation of a society in the same instance as it destroys the one that preceded it. The foundation of Rome causes the inevitable destruction of Alba Longa. We have a further murder. Romulus, a descendent of Alba Longa, destroys the fellow city. It would seem that the hills and lands cannot be shared.

The sacrificial crisis leads to an original sacrifice, which, in turn, leads to the eventual sacrificial crisis: the mimetic repetition of murders in the name of a mythical

foundation. But we need to reiterate the function of Evander, the king of letters, the writer, that destroys the difference and declares the reality through the single voice. Cacus falls silent. His friends, the shepherds, listen to Evander. 'Evander who transforms the murderer into a god, who throws discredit onto Cacus ... [who] writes in only one sense.' (Serres 1991:16) The prescription of justice and the prescription of history: here lie the anonymous sacrifices, the silent few; here stand gathered the crowds of Hercules, of Romulus and Rome. They gaze at myth, at that origin and foundation. They stare at Evander, the writer and his history, his story. It is that old familiar scene. Livy still looks towards Evander. Virgil is still standing in the crowd of spectators. They write, the silent victim lies at their feet, their eyes raised to the divine founders, the divine murderers who never committed the injustice, for justice, like history, is supposedly theirs. The danger of silence, of not letting the Other speak and expose themselves is starting to slowly emerge as the silent victim is spoken over in the writing and rewriting of the history and myth of the murder. The homogenous communion fails to see the cost of homogeneity. The problem of silence and the quenching of difference as a means of achieving equality or achieving the illusion of justice is slowly being uncovered. I am slowly approaching the difference between justice as (forced) agreement and a justice as sharing.

The myths of Rome only offer us sacrifices that are pure, where the victim is silenced and tragedy and injustice are concealed. Hopefully this will explicate and draw out a relation to justice (or its failure). To better understand the role of the tragic and the consequence of failed prescriptions I will move on to Shakespeare's *Titus Andronicus* (1984): an interplay of fate, injustice and sacrifice where revenge, myth and tragedy intertwine and meet in a concluding moment of excessive violence. The gathering of these concepts in a turbulent fast paced tragedy results in a new foundation, a foundation that, as all the others that precede it, is founded on murder. The conclusion is no conclusion and the play has no end, much in the way that it has no beginning, just another murder in the endless chain of foundations, which are merely built on others. But I digress and should introduce the tragedy:

Victorious Titus, a Roman general, returns to headless Rome, which is re-founded with the sacrifice of Alarbus, son of the conquered Tamora, the Gothic queen, the victim of prescription. Titus exclaims that those sons of his murdered by the Goths

in his war ‘Religiously ... ask for a sacrifice. | To this your son [Alarbus] is marked, and die he must, | T’appease their groaning shadows that are gone.’²⁴ (Shakespeare 1984:89) So murder has preceded the beginning of the play, yet we join the crisis in the moment of foundation, the moment of prescription and of myth. Titus speaks and Tamora falls silent. Rome prescribes and fills Evander with pride. Yet Titus speaks two words that forebode the end: ‘Patient yourself’ (Shakespeare 1984:89). Tamora herself is the imperfection in the prescription. Remus and Cacus lay dead on the floor, no one to mourn, no one to discover the injustice, hidden by Evander and hidden through the averted gaze that stared into myth’s common sense. Tamora, however, is standing proud and mourning. Her eyes see nothing but the victim, the son murdered with ‘cruel, irreligious piety!’ (Shakespeare 1984:90) Rome is refounded in this scene, and a new emperor is crowned. The image at once lacks difference but creates difference in a contest: two mourning parents, two leaders, two claims contesting the piety of the inflicted pain.

The impurity of the prescription, the impurity of fate leads injustice and sacrifice into the scene and revenge, myth and tragedy meet. Tamora becomes empress through some unexpected turns of events.²⁵ After she becomes Roman, and is no longer *Other*, after then murdering two of Titus’ sons out of revenge and Tamora’s sons raping and mutilating Titus’ daughter Lavinia in a further act of vengeance, all purity is lost and the entire cast is bloodied by violence. Titus and Tamora become evermore like twins, like nemesis: a son for a son, murdering their offspring. Titus, in the concluding scene, serves Tamora her last two sons in the form of a meat pie, made from their blood and ground bones, before murdering her. Titus is then himself murdered by Tamora’s lover, who is murdered by Titus’ two remaining sons. This reciprocal death reminds us of Romulus and Remus leading their mobs into a quarrel, yet this reciprocal violence has no beginning. It ends in much the same way as Romulus and Remus’ dispute: the murder that finally manages to silence the victims. Those who remain, those that survive are Titus’ sons Lucius and Marcus. The final symbolic murder is that of Aaron, who is blamed for most deeds, laden with sins: a scapegoat. He was Tamora’s confidant

²⁴ We can already see the approaching crisis as Titus’ sons are dead but not silent: they are victims.

²⁵ In most of these myths the unforeseen plays a large role in the impurity of a foundation: the vestal virgin that no one expected to give birth, the abandoned twins that no one expected to survive, the captive Goth queen that no one expected to become the lover of Rome’s new emperor.

and secret lover. Aaron is murdered and Rome refounded. Marcus, the new emperor of Rome, proclaims, prescribes, standing on the upper stage, above and amidst a gazing crowd and speaks: 'My father and Lavinia shall forthwith| be closed in our household's monument. As for that ravenous Tiger, Tamora, No funeral rite, nor man in mourning weed, No mournful bell shall ring her burial; But throw her forth to beasts and birds to prey;' (Shakespeare 1984:194) and so the last victims fall silent and justice is refounded after it has been murdered.

To spend a moment with the symbolism of the tragic act, the moment of Lavinia's death that has been omitted this far. After her rape by Demetrius and Chiron, the two sons of Tamora, she reminds Titus of that deed. Her shame brings sorrow to him, so, as Verginius did with Verginia (Livy 2002:252), Titus kills his own daughter to rid her of her shame and himself of the memory. Lavinia's death is the one moment of tragedy and her role can be seen as nothing but the signification of justification (casting silence as illusory justice). Lavinia is the embodiment of justice. She enters the play following Alarbus' death, praising her father, Titus. And in this moment of sacrifice and prescription, that mythical foundation through murder and immolation, Titus is the father of 'justice'. Lavinia is then promised as a bride to Saturninus, the new emperor of Rome. Justice follows rule. Lavinia belongs to Caesar and it is the moment in which justice flees (or is taken) from Saturninus to escape with Titus' sons and Bassianus (who is Saturninus' brother, leading to a fraternal conflict, as both desire the same woman, both desire the same city, and both desire justice) that the violence begins and revenge ensues. Saturninus, enraged by the humiliation of having his authority challenged, takes Tamora as his wife in Lavinia's stead. Titus' justice (which is becoming synonymous with Lavinia) is then violated, ravished and mutilated by Tamora as she takes revenge. This *shameful justice* is no justice at all. Tamora puts Titus' justice to shame, a shame that maddens the old man as no desire for murder is just any longer: his myth has departed and all that remains is guilt and the indistinguishable twin. Lavinia, his justice, now merely reminds Titus of his similarity to Tamora. So, prior to the most excessive instance of violence that leads to the death of many, grand Titus murders Lavinia, murdering his shameful justice and resigning himself to violence. Titus no longer needs justifications as he gives himself to the desires for revenge and suffering. Titus gives in to the sacrificial crisis as he murders

with no desire to silence victims, to create homogenous agreements, or to rewrite history. Too many bodies litter the ground. This, eventually, leaves the survivors to start again, to hide the corpses of Tamora and resurrect Titus and Lavinia, resurrect Titus and his justice in a monument! The blind rage of Titus is forgotten and he becomes a hero once more.

The story of Titus is so excessive, bloody and violent an example of injustice that it shows the vague, near arbitrary relation between mythical foundations (headless Rome) and the subsequent violent death of justice (Lavinia). This murderous founding myth is neither the only myth nor the only foundation of a community. It is, however, the foundation that sacrifices a part of the community, that at the same time murders what differentiates it and reinforces that difference through its murder. But, as I will come to argue later, this murder is not a foundation in the sense of sharing, and the sacrifice does not quench the communities' thirst for violence preventing a sacrificial crisis.

Murdering 'Others'

The community of myth is the community that murders the 'other'. This is meant in both a literal and a slightly broader sense. The foundational myth, in some cases, involves actual murder, and, even if in the instance of death, the victim is not 'other', he or she becomes 'other' once the survivor gathers the crowd around. This is the part that reinforces this difference, both between the murderer and the victim, and between the victim and the crowd. The broader sense of murdering the 'other' is already given in the above, but I should explicate it.

The victim is not just different, but also symbolises 'otherness' and when the body of Tamora is thrown to the beasts and devoured with no grave to mark her existence, it is any difference that dies. Multiplicity is quenched. This extinction is the first communication of that newly founded community. What they share, that is, what they have in common, is that communication: the moment the Other dies. So, once plurality departs only a communion remains, that is, one orientation. This sounds problematic, but the concept has been explained above in as much as the violent mob, the intently listening shepherds, or the future Romans, are indistinguishable and become

a mass that has no singulars beyond the very physical existence of a myriad of bodies. That plurality is singular as none of these faces is distinguished, particular or unique, with the one exception of the quickly hidden victim, the exception of the corpse.

The scapegoat becomes the integral part of the peace of the mythical community. The bellow of the sacrificed cow, the silenced voice of Cacus, no one *does* justice, yet all is just. The end justifies the means, quite literally: the death justifies the murder. How can that death be justified though? The preservation of this oddly paradox communication that eradicates difference and leads to a craving and suspicion of difference, where if harm befalls the community, the Other becomes the cause.

Surely he took up our infirmities and carried our sorrows, yet we considered him stricken by God, smitten by him, and afflicted.

But he was pierced for our transgressions, he was crushed for our iniquities; the punishment that brought us peace was upon him, and by his wounds we are healed.

We all, like sheep, have gone astray, each of us has turned to his own way; and the LORD has laid on him the iniquity of us all.

He was oppressed and afflicted, yet he did not open his mouth; he was led like a lamb to the slaughter, and as a sheep before her shearers is silent, so he did not open his mouth.

By oppression and judgment he was taken away. And who can speak of his descendants? For he was cut off from the land of the living; for the transgression of my people he was stricken.

He was assigned a grave with the wicked, and with the rich in his death, though he had done no violence, nor was any deceit in his mouth.
(Isaiah, 53:4-9, New International Version UK)

And so, all the sins are carried away in silence by the goat that makes no noise, no note of itself. What is left are people without a blemish and without sin, but consequently people without distinctions or experience. They stand, gazing at the goat that departs and leaves them like blank canvasses, without sin, without guilt, without any transgressions. Peaceful and indifferent.

The spectacle will always end though. The scapegoat is expelled just like the victim is murdered. What remains in the aftermath is little more than the lack of difference. That difference that Girard hails as important to the avoidance of further sacrifice is always destroyed with the mythical foundation. The loss of the spectacle leaves the community quiet and peaceful, but only for so long. I have argued that communication has ended the moment the victim dies and what follows is an uncomfortable silence where the mob realizes its own existence. It is a moment when

the mob gazes at the myth, but then begins to gaze towards one another as the spectacle has ended; that strange silence when the crowd turns away to walk home and nothing any longer seems shared or in common. The end of the spectacle marks the end of the spectacular communication. That explicit and loud proclamation that has founded the community falls silent, so in order for the community to be held together, in order to prevent Girard's sacrificial crisis (or the loss of prescription and rules of reciprocal violence) a new spectacle needs to be found.

In the moment of transition, when the crowd turns towards itself, the otherness is rediscovered, but only to be murdered again to create that craved communication. The *otherness* is never murdered, only one of many others. The crowd is deceived. Murder and power do not kill the Other. It is a magic trick. Evander the magician distracts the crowd whilst the victim is hidden in a hat. But, at least the others are but a few. The singular that is murdered is of course singular; the few lost souls that are other to the communion. So, to prevent the sacrificial crisis and loss of lives which leads to more loss of lives, in other words, to prevent revenge, a few must die: the culprits of difference, the culprits that are different. Maybe it is just then? To save the many and murder the few, or, of course, in the words of Evander, to save the many *by* murdering a few is fair? The utility of the public spectacle is the utility at the basis of Girard. And maybe he is correct. Maybe Bataille (1991) was wrong and the spectacle is not about excess and transgression, maybe there is no accursed share, but simple utility. The sacrifice rationalised and no longer impassioned?

But there is passion in the ritual sacrifice that is its volatile nature. The excess is the utility, which fails to make it just in many ways. And this excess founds myth, it breaks myth, it re-establishes myth after it is broken. Titus murders, Tamora murders, both are murdered: they are all dead, let us start again! The desire to prescribe whilst standing over a corpse turns into revenge and even the vicious end of Shakespeare's play does not see the Other dead. Tamora and her lover Aaron had a child, an infant boy that is left to live, like the abandoned children that found Rome and destroy Alba Longa, the land that spared them. And we descend into a routine of murdering the Other, yet, the Other seems to be omni-present. In Girard's (1977) book about the sacred violence the need for difference between sacred and profane makes violence, death and sacrifice as omni-present as otherness. So how can the foundation on murder

really be utility when the otherness is forever a part of it that cannot be accommodated? We will return to the issue of utility with more clarity. For now, the contamination of the community through violence, this disease that contaminates, is treated with violence that is sanctified. Yet there is no cure for this disease, just a treatment against its symptoms, hiding the pain or injury, silencing the injustice, without ever murdering its cause. What is that cause? The cause is violence, yet where does the violence begin? Does it begin with Remus's dead body, Cacus' dead body, or Alarbus' dead body? The cause is myth or is the foundation at the heart of myth. Girard talks of sacrifice, of this recurrent need for violence that wards off some other violence, as mimicking the original sacrifice. This mimicry is what contaminates and the community is founded on the violence of the original murder. The volatile nature of violence as a treatment for violence is simply the lack of difference: the only difference is prescription that hides injustice and guilt; it is prescription that fools revenge and reaction.

My depiction of the ritual sacrifice, or spectacular violence, draws towards a realisation of its tragedy, of the undeserved fate and a realisation of its irony. Both distract from each other, and both reaffirm each other. The 'justice' of the underserved fate is the 'justice' of the unjust death. The irony of sacrificial tragedy is the death of a twin who died unjustly, yet his unjust death leaves no trace of its own tragedy. It could be the perfect crime. Not that there is no witness, but there is no victim. When looking at the combination of Bataille and Girard, both of whom regard myth in a different light, the seeming incompatibility of their arguments drawn out in this chapter develops into an irony that gathers in depth. As mentioned, the sacrifice is a moment of communication and of intimacy for both Girard and Bataille. In the act of murder, the crowd communicates intimately with the victim. The victim becomes the nucleus, the core, the fire that lit up the faces, that lit up Peter's face (Girard 1989:150). But the sacrifice, or the violence that is often association with immolation (Hercules asking his son to build a pyre (Girard 1977:191), Tecuciztecatl and Nanauatzin making their sacrifice becoming the sun and moon (Bataille 1991:48) or the pyres burning many of those persecuted in the middle ages), in the same act as it illuminates the faces around the spectacle hides the Other in the crowd and the spectacle becomes the *one* exposed Other. The bright light blinds those that stand in the surrounding night. The moment of the sacrifice, the moment that extinguishes that fire, the last breath of the fire-breathing

Cacus, leaves the onlookers blind, blinded by the prescription of the overbearing light. Like moths drawn to a light, the mythical crowd has a connection not with one another, that indistinguishable crowd of dimly lit faces; instead the intimacy happens with the fire, the fight and struggle of the sole life that is murdered. The irony is the crowd putting out the only light that holds it together. This crowd, which extinguishes the fire that creates a common-place, is argued by Girard to require this fire. The flames eat the victim and leave behind a barely noticeable heap of ashes. We are left with a constructive destruction.

The aftermath of the sacrifice leaves the gathered mob in the dark. They no longer communicate but have fallen silent at the moment their victim fell silent. The communication breaks down. What follows is a further sacrifice. Where did this start? The crowd gathered around Evander or Romulus. It started with the founding myth. Girard's insistence on difference is slowly becoming increasingly comic, as the silent crowd is no longer different from anything or anyone. They are near each other, standing amongst themselves, yet not *with* themselves. The death of the Other, the murder, leaves them pacified until difference is rediscovered, or reconstructed.

I should expand and move from this narrow vision, this gaze at the spectacle to the issue of community and the issue of justice. When I began, above, with the aim to find a just sacrifice, Girard's claim of the ritual sacrifice being a necessary evil to accommodate the violent nature of any community was the most problematic both in respect to the claim made about the community and the claims made about the justification.

Guilt

The murder of the victim, that is, the prescription that follows the murder of the seemingly innocent is the moment in which guilt is forgotten and guilt is denied. The narrative of murder seems to necessitate a prescription and it is not important what or who prescribes. Let me tell a story, rather than recounting stories of others. Let me play Evander for a moment:

Hercules, the thief, crosses a river into the land of the divine shepherd Cacus, son of great Vulcan. Hercules, with his wrongly taken cattle, lies on a field and falls

asleep. Great Cacus stumbles across the unattended animals and decides to make them his, as it is his land. Not to be caught out by the murdering cattle thief, Cacus drags the animals by their tails to reverse the tracks and confuse the unwelcome stranger. As the stranger notices the loss, as Hercules awakes, he is enraged and after initial confusion is lead to the shepherd by the bellows of a cow. In rage Hercules clubs the shepherd to death after giving him chase. Other shepherds from the region arrive at the scene of the murder and lament the death of their fellow shepherd with ever growing anger. The gathering mob surrounds Hercules, the murderer, and their anger breaks into violence. Evander, a highly regarded man of letters sees the violence, sees the murder and proclaims Hercules an unruly intruder and murderer, a breaker of peace. The *Other*. Evander announces the otherness of Hercules and the impurity of his unjust murder. Hercules is slain and Evander proclaims: “poor Cacus, former friend, we sacrifice a bull in your name, for your tragic death.”

This is the same story with a different end. It is a tale of murder and prescription. The final murder of the sacrificial crisis never has a victim. Hercules, in our other story, is not a victim of mob violence, but a punished murderer who came to his spectacular end at the hands of the one homogenous crowd, that indistinguishable band of shepherds that, in the original tale, was just as indistinguishably gathered around the body of another. Is there yet another story to be told? A story of Titus and his last sons murdered by Tamora, the Goth who is stolen, the stranger that is taken by Rome, like Hercules’ cattle? The story of vicious and unforgiving Titus who murders and contaminates Rome with violence!

Who dies is irrelevant: the stranger or a member of the community, Hercules, Cacus, Tamora, Titus, Romulus or Remus. Some are foreign to the lands in which they die, others are foreign in the lands in which they murder, some are strangers to where they are revered and others have served their place of reverence. So when we speak of the murder of the Other, it is the murder not of the stranger, but the surrounded, the gazed-at, the differentiated other. The injustice is the prescription, the murderer, or Evander, turning to the crowd, speaking. The third story would see Evander being absent and the shepherds murdering Hercules in an act of violence. Without Romulus, without Evander, without prescribed law, the crowd would gaze at the dead body, filled with uncertainty and lacking direction. What would they have in common then, beyond

all of them being murderers? What would they see in common beyond the blood on their hands?

The injustice is the proclamation of the sacred in the sacrifice! The many murdering the few is without guilt and becomes sacred only when the gaze is averted from the dead body and turned towards history, towards myth, towards foundation of a being-together-at-the-spectacle. Innocence is unreal until it is proclaimed. Guilt does not occur until it is spoken of. Girard talks of Christ's Passion as a moment in which persecution and the scapegoat ceases to function: a revelation (Girard 1989:111). What is revealed? The victim! Those that sacrifice Christ 'do not know what they are doing' (Luke 23:34, NIV UK), yet the leaders of the persecution all know of the victim's innocence, yet speak of the death as a smaller evil. Imagine Evander racing to Cacus' aid, proclaiming his status, his innocence, yet in the same moment calling for his death. We see a demystification of myth as a result of the explication of the shared guilt, and maybe in that moment the crowd begins to have something *real* in common, that is, it communicates beyond the death of the Other and shares guilt for the collective murder. We are not yet at the 'absence of myth' and Christ's passion is no *just* sacrifice either, however, it is the realization that there is a victim that leaves the crowd with an uncomfortable, yet shared failure of justice. Sadly, the mythically founded communion continues to be unjust, as any sense of sharing and justice is only ever a reaction to the murder, that is, the failure of justice. The murder of the Other being realised for its injustice is the solution to the above mentioned irony. The Other is murdered, difference is murdered, yet only by the realization, the gaze at the life-less corpse, is there a communication beyond the victim's death. The crowd has to realize the tragedy to overcome irony. The crowd has to realise that the silencing of the Other is unjust in order to stop silencing the Other.

What does always remain is a purely same communion that conceals the singular. But, the above is intended to allude to an escape from Girard's sacrificial crisis through the guilt of persecution. For Girard the crisis can only be prevented through the precarious use of the sacred, which is the dangerous prescription of justice. The end of prescription can, as opposed to the excessive violence, produce a shared guilt, and a shared realisation of murder. With a mythical foundation, whether there is prescription, guilt, foundation or mimicry, death and murder remain.

Mythical Foundation

The *founding myth* and the *mythical foundation*: The same story, yet a different story. We have regarded the foundation of myth, how myth is established and how myth ties in with the foundational scene, the gathering around and the proclamation of history. Yet, is myth a *real* foundation or merely a mythical foundation? Myth, assuming there is any truth in Bataille's statement that the absence of myth discredits myth into something fictional and illusionary, can found little more than an illusionary community. Considering that aspects of community were argued to be part of human *being* it is hard to see how a community could be entirely illusionary since the desire for myth and existence would be shared. But can the mythical community be a community in which the singular can be reflective, or in which the singular can achieve the sense of consciousness argued for in Chapter 3? The singular experience of the above-described mythical community is something that fails to enter the story of the mythical foundation. The only singular experiences developed so far are that of the victim, that is, the experience of dying, and that of Evander, that is, the speaker.

What makes the mythical foundation so mythical, so uniform in its experience (which appears as sharing), is that the very foundation of myth is merely a distraction from the failure to found anything beyond myth. The foundation merely founds itself. Myth only generates myth. The foundational myth and the mythical foundation become the same, become identical. Yet, why does it seemingly create something more than the story? Why is there a sense of community, when, or so I claim, there is no singular community?

Irony again. Irony seems to be a part of myth and the mythical community that often goes unrealised. The very failure to be more than a foundation of itself enables myth to gather a crowd. Myth stands as that which distracts and deceives. It is a deception that relies on the passive gaze and the failure to engage any other part of the mob into the event. The moment Evander steps forward to Hercules' aid, the crowd becomes passive or pacified. Imagine Evander founding more than myth, founding a community that ties in the crowd actively and creates a singular community. This would no longer be myth and would no longer be prescription. For Evander to talk, the rest has

to remain silent. The mythical foundation has to remain mythical. There has to be Evander, Romulus, Marcus: our cast of prescribers, or scribes, much like Virgil and Livy. There has to be that voice, that only voice, as the rest have fallen silent. The death of the victim, the 'I', becomes so symbolic of the crowd that falls silent with the victim. The victim's murder is not only the death of the singular, but the community perishes as sharing, together with the rest of the voices, fade. We are left with averted gazes of intent listeners.

Intimacy? Bataille's understanding of myth is far more complex than that of Girard and Serres, and his claim that there is an intimacy in the mythical foundation, that the act of ritual violence does create an existence for the crowd that is intimately tied in, stands in opposition to the claim that myth merely founds itself and little more. The utility, that is the control of violence through the sacred sacrifice described by Girard, is exactly what Bataille fears. The importance of the sacrifice is the loss of utility. For Bataille utility and usefulness are profane whereas excess and transgression are sacred. It is this excess of the sacrifice, this loss of utility, that creates an experience of life that is 'sovereign' and uncontrolled. Sharing this experience is what makes the sacred myth so intimate (Bataille 1994:73ff). For Bataille this moment of excess, which has so far been mainly described as a passive mob murdering a self, becomes the terrifying release of the individual, of experiencing life in a surreal and profound way. Without this excess and transgression in myth, there is no experience of life, yet with it, there is violence, either ritual and sacrificial or reciprocal and profane. There is no excess without violence.

Maybe I am in error when regarding Bataille, as I write from within the absence of myth, and I try to capture the excess of the sacred by writing profanely. The sacred should and can only be captured with language that does not aim to be functional or that has no utility. Poetry, for Bataille, is the sensual language without intelligible signs but filled with cries. The sacred that is no longer silent, unlike the quiet peaceful corpses that litter the works of Serres and Girard. The corpse of Bataille enlivens and exposes the despair and finitude of life and creates the excess and terror that is the experience of the sacred, an experience that finds no place amidst these words. The sacrifice is a moment of poetic communication.

Yet, then, Bataille draws us back into a sense of reality that even he fails to escape. The sacrifice becomes an instant of poetry and an action that ties in the sacred with the reality of the world. The sacrifice is poetry with ‘use-value’ (Bataille 1994:148). And even though this intimacy of that fleeting moment of anguish and pain, in which the crowd experiences the poetic, excessive image of the dying victim, that moment in which both the crowd and the victim are ‘truly’ alive through the transgression beyond any utility, is a moment of communication, I would still contest its reality and attest its utility. The rebirth through destruction continues to be death. The intimacy continues to be an intimate experience. The experience remains a communication of the victim and the individual in the crowd. There is no crowd for Bataille, but the atomic, scattered individuals that independently gaze at the wasted life, in awe, in terror and finally alive.

But is intimacy ever a foundation? Does it found a community? Bataille’s myth still just remains myth and nothing more. There is still the spectacle and the crowd. The crowd is blinded by the pain and distracted in their moment of individuality and sovereignty. They gaze at the inexperiencable, at death, at the moment in which the victim is extinguished, yet the crowd cannot follow, cannot share and cannot be intimate with that moment of anguish. The mythical crowd is a crowd that is deceived and filled with despair at their own passivity²⁶ and failure to experience. The deceit is precarious and volatile. Sometimes the deception fails and the sacrificial crisis ensues. Sometimes the crowd is deceived and a relative peace follows from the passivity. This is all resting on the assumption that there is no need to communicate, or to actively share each other as singulars, since all already seems shared. For Girard, the crowd is deceived by the violence, as their human urges are calmed and fed; for Serres and Nancy the crowd is deceived by misleading tracks and Evander, the single voice that proclaims as the rest falls silent; Bataille’s crowd is deceived by its sense of truly experiencing existence beyond utility, when actually just witnessing it, gazing upon it and in a sense just touching a void without descending into it. The deceptions of injustice, sacrifice and

²⁶ Bataille would most likely object to the passivity of the actor who experiences the excessive, yet I want to draw the attention back to the very brief distinction between active sharing and the more passive form of having something in common. Bataille only offers us a crowd that is consumed by the sacrifice and an important aspect of his idea of intimacy is that this complete consumption is an experience genuinely shared, because it is genuinely same. This sameness does nothing to offer us a sense of community that actively shares its being however.

fate; eyes averted from tragedy, myth and revenge and blinded by violence, prescription or anguish.

Either the disillusioned community gathers around a new victim: persecution and prescription find their way to distract the crowd a moment longer and the crisis is averted or ends with some murderous prescription. Or, myth is dispelled, much like the Passion, where the unanimity is emphasised ‘to denounce its total mistake, its perfect example of nontruth.’ (Girard 1989:115) The community realises its own illusion, it disappears, just like ‘a universe without myth is the ruin of the universe – reduced to the nothingness of things – in the process of depriving us equates deprivation with the revelation of the universe.’ (Bataille 1994:48) The absence of myth, for Bataille, leads to the absence of the sacred and the absence of community; yet, it leads to the absence of the community that was never truly there. However, being only myth, and unable to be more than myth without losing itself, the absence of myth can only ever be that, the absence of myth and the absence of the deceit that comes with it. Bataille regards myth as only ever existing in plurality and this plurality deceives again and appears to allow for other voices. Myths that are open and allow there to be mythologies. Yet, myth as foundation prescribes, it prescribes justice and demands a silent victim. Myth’s plurality can only ever be the plurality of victims, all silent. No myth can have more than one voice. Bataille’s myth is exploring all that can be explored and revealing the world behind the world (1994:83) which he seems to regard as an effect of the plurality as well as the transgression; yet Bataille never speaks of the victim’s voice, but only of the victim’s experience filled with romantic jealousy at the moment of death, of that moment of release through anguish.

The mythical foundation leaves all the particulars, the singulars, and the faces in the crowd at ease with their individuality, their failure to share, the injustice of the inequality and the spectacular violence. Perpetuating this myth of sameness and intimacy²⁷ at the spectacle perpetuates a false peace, one that Girard knows of as he describes the sacrificial crisis, but one he fails to connect to the murder. The murder of the victim, the deaths of Remus, Tamora’s son, Cacus and all the other silent corpses,

²⁷ Even though intimacy will return as a concept and will be discussed slightly I want to draw attention to the humour of sameness and intimacy being almost synonymous in the mythical community. In these two words we might find the sharpest contrast between sharing as having something in common (as something being ‘same’) and sharing as reciprocal attention to each other. Sharing differences becomes non-sensical in the prior meaning but reasonable in the latter.

are not sacred but prescribed. Bataille's sacred is a communication beyond utility, beyond functionality and objectivity. But, as I argued above, murderous myths and foundations are moments of false utility and prescribed functionality in which all voices but one fall silent. How can this be sacred? How can this be just?

JUSTIFICATION

Mythical Equality

As my aim is to discover sacrifices within a community, I assume that the ritual sacrifice and the mythical community are neither a sacrifice in the way that is desired, but mainly acts of violence and communion is not a community either, but merely a deception through the prescription and violence of the spectacle. The sacrifice I am aiming to discover is one that is just whilst being part of a community. The importance of the coexistence and symbiotic relationship between the sacrifice, the community and justice will hopefully become ever clearer. Since both the sacred and the community are absent it seems almost unnecessary to examine justice. It seems needless to explicate what has been implicitly said on many occasions above. However, as a means of conclusion and transition, of dispelling the mythical community and the foundational murder and introducing the deontological sacrifice, the other form prescription that has so far gone unmentioned, it appears excusable to explicate the injustice of the ritual sacrifice. It is an injustice that relies on its perception as justice, a perception that is achieved through the homogeneity, the silent victim and, in some cases, a utilitarian hue that covers the murderous scene in a favourable light.

The previous chapter claimed that justice relies on fairness, which means that it relies on a sense of equality. Formal justice, as in the example of the plane crash, had a formal equality, which can arguably be seen to a similar extent in the crowd. The lack of community, that is, the imaginary, deceived group of individuals, are all equal in as much as they are all equally witnessing the spectacle. And in a sense, none of the faces are at all particular or unique. They are equally treated to a sacrifice as all eyes are on the de-victimised corpse, the only other, the only particular. This is myth, and it is the equality of all others that prescribes the corpse to be any more than a corpse. The

murder fails to explicate guilt, and even such guilt would be equal amongst the spectators. This self-legitimising through the murder of the only perceivable inequality is leaving the gathered crowd innocently equal, without injustice as all seems fair whilst their gaze rests on the explicit offence to that very equality.

Having spoken of the deception of the crowd towards sharing anything, this sharing implied the equality, an equality that is as much an illusion that stems from the death of the Other as the actual sense of community. In the founding myths we have yet to see anything being actively shared amongst the crowd and any of the pain experienced to be shared fairly. There is pain, yet a pain that goes without saying, but is simply experienced by the victim and simply watched by the crowd. The community is not in common and has nothing in common, which also includes the failure to share. The suffering of the victim, in a sense, is distributed, but it is not shared, it is stolen and denied. The suffering of the victim becomes the joy and spectacle of the crowd. The crowd fails to share the suffering, it fails to bear any burden and share any of the victim's experience, which is public humiliation through suffering *alone*.

If it is violence that is quenched through violence, the crowd is pacified through the exorbitant amount of suffering that is an uneven share; it is inequality without cause and with denial. The justice of the sacrifice in which the scapegoat is explicitly the scapegoat, that is, the murder of the innocent where the murdered remains to be a victim and the crowd shares its guilt, comes nearer to justice. The crowd that cries and suffers as the tragedy of the murder of the innocent takes place, the crowd that is not pacified but ashamed by the sacrifice at least shares the suffering, even when this share is not equal. The guilty crowd, at least, can lean onto utility, can take solace in their prevention of a sacrificial crisis, assuming that Girard holds true. Yet the deceived crowd that shares no suffering but blankly, even blindly gazes, is just only through illusion, whilst the justice falls apart together with the uncovering of the myth.

Equality exists in another sense in the above. It is the equality of a Hobbesian state of nature, an equality of the ability to murder in the moment in which any difference between the sacred and profane violence disappears; the moment in which Tamora takes a seat on the throne. Therefore the sacrificial crisis poses a slightly more intriguing question than the mythical community in terms of justice. Whilst the mythical community is deceived towards its injustice, the collapsed crowd living in the

sacrificial crisis is beyond justice. The mythical community is prone to provoking revenge, as I have mentioned. Yet it is the sacrificial crisis that is an aspect of this vengefulness and it could almost be argued that the sacrificial crisis, unlike Girard's description of the ritual sacrifice and spectacle as a lesser evil, is the lesser injustice. Returning to my above definition of justice as a fair share it becomes profoundly problematic to talk of the ritual murder as a fair share, considering the often necessary innocence and the loss of the victim in cases where the guilt is prescribed and as importantly the failure to acknowledge the injustice. I am not aiming to argue for revenge as just. Yet, an eye for an eye, and a reciprocal violence that shares the community's suffering amongst its members fairly, or fairer than murdering an innocent victim and confusing the traces through history and prescription, like the trails to Cacus' hidden cave, seems to appeal to a different aspect of justice. The issue of utility does not enter here, where the equality in treatment is singularly important. No one has a right to harm but as violence erupts, the harmed have a right to harm, and murder ensues. If the community has some sense of violence that has to be released, then the sacrificial crisis is seemingly more just than the ritual sacrifice. Sharing violence actively, as opposed to using violence done to an individual to remain passive, results in a fairer share, where the blood runs from everyone's wounds equally and not merely from the wound of the silent victim.

The arbitrary choice, the victim that is murdered for being other, but is made other through little more than the sacrifice, leads to another issue of justice that results from the failure of equality and the failure of being a community. If a victim needs to be chosen because of utility, then it should be through a random choice, a form of lottery. It would be a stretch to argue that persecution is lottery. Girard's depictions of persecutions also deny any sense of equity, yet imply the opposite, inequality. Equity, in the reference to justice, is an aid, a connection to equality, that supposes an inequality. The persecution is an inequality. It is the persecution of the particular faces in the past that McHugh (2005) regards as necessitating equity to reverse, to re-establish equality. The equality that slavery and persecution have destroyed:

THE NEGRO: You can hear them, mam?

LIZZIE: Yes.

THE NEGRO: That's the hunt.

LIZZIE: What hunt?

THE NEGRO: Man hunt.

[...]

LIZZIE: *What will they do to you if they catch you?*

THE NEGRO: *Gasoline*

LIZZIE: *What?*

THE NEGRO: *Gasoline. [He makes an expressive gesture] They set it on fire.* (Sartre 2000:32)

The play *The Respectable Prostitute* (Sartre 2000) offers us the mob in pursuit of a spectacular violence. Lizzie, a prostitute, who a white man attempted to rape, is faced with the accused, a black man who was merely in the wrong place at the wrong time. She insists that ‘the Negro hadn’t done nothing’ (2000:22) yet Fred, an influential man, our Evander of the story, proclaims that ‘A Nigger has always done something [...] It’s Tom [the true rapist] or the nigger; you’ve to sacrifice one.’ (2000:22) It becomes the choice of the criminal or the Other that is to be murdered. One of them for a crime, the other for being different. Again we find a mob, we find the particular face of the black man, persecution and a choice of victim that is not just, but simply the false community driven by the prescription, the prescription of Fred (who is the senator’s son). We find immolation. The death by fire leaves the victim unrecognisable, destroys the face and burns the guilt to ashes; the fire that illuminates the crowd and blinds it.

The persecution appears in defence of a falsely imagined equality. ‘Any difference that exists outside the system [which I take to refer to the community] is terrifying because it reveals the truth of the system, its relativity, its fragility, and its mortality.’ (Girard 1989:21) This lets us reconsider the fire again. Peter, whose face is illuminated by the fire, is a stranger, yet is terrifying to the community because he is no more different or no *stranger* than the onlookers between themselves. The black face that appears at the door of Lizzie is hunted because its appearance is other, yet its appearance shows that there are rapists amidst the community, that the accused is found within the ‘system’ as much as without. The equality of the crowd is simply ignorance and the denial of the singular. The homogenous is always an illusion: it is a blurred image, out of focus, like the tired gaze that stares relentlessly and repeatedly at little else but the obvious other. The claim of justice based on what might seem an equality at first is nothing but the injustice of a false community that does not share suffering, but expels it by igniting and burning what seems most different. The communion that seeks to preserve its superficial homogeneity confuses inequality with difference; it confuses equality with indifference.

[Silence]

A Question of voices: Who cried out? Everyone. Who heard? Everyone. Who is silent now? Everyone. (Serres 1991:17)

Serres, unintentionally, describes our sacrificial crisis, the raised voices of reciprocal and excessive violence. Serres also describes the silence that follows its end and that follows the mythical foundation. The silence that allows for prescription and that accounts for history. Writing, unlike sound, travels through time. All that falls silent without record is forgotten. The silence of the dead body becomes ‘a scapegoat *that cannot be found in the text.*’ (Girard 1989:121) This is the tranquillity of the corpses that litter myth. The silence is not part of justice, neither the justice of the prescription (the justice of text), nor the justice of the previous chapter. Silence is simply silent. But we need to better understand the implications of silence and its role in the foundation of the mythical communion. When looking back at the community of singulars and its foundation in *being* singular we reencounter exposition as the central concept of *being-with*. If this centrality of exposition is remembered, then the gravity of silence becomes clearer. If we remember the essential community that rests on our being, the silencing becomes the most violent attempt at its destruction. This pushes me to follow the concept of silence and its relation to justice and community in more detail.

Silence does not form the prescription, it does not aid justice, it is the absence of noise. Noise disrupts. It disrupts the spectacle and distracts from the prescription. Silence enables justice, but forms no part of it. It is the silence that is deceptive, but the silence is not destructive. The gazing crowd that is passive and silent in its own way opposes the silent corpses, erupting into a uniform cheer or gasp; this is the silence of homogeneity, the silence of unanimity. When we speak of the murder of the victim yet again, we speak of it in yet another way: the silencing of the victim.

The silence is deceptive in so far as it is the passivity of a dead body that results from the violence done to it. There is no silence in the body of the victim without violence. The silence is the averted gaze, the silently averted gaze. But there is hope yet, since there are occasions when the silence goes uninterrupted without violence. Silence can be genuinely peaceful. The communion that is created with the original murder and the mythical sacrifice remains to be a myth only as a result of the prescription. The

single voice talks, which is a single voice that has all the others silent (or is joined by all the others) and, in the case of the ritual sacrifice, silences the Other violently. So the silence marks either tranquillity or injustice: does merely one voice speak?

The communion can be considered in terms in which the silence is simply a disinterest, when everyone gazes at a spectacle that is not violent. But trying to find a just sacrifice that is at the centre of this communion, we can no longer speak of justice unless we do not speak of it at all, unless we fall silent. 'Don't shout' Lizzie tells the victim (Sartre 2000:12) as if a silence prior to violence can save the victim by deceiving the crowd. The hidden other, the silent other, that is deceptive through silence, is not just either as it forces the victim to live in fear without exposition. The averted gaze of the crowd turns into the searching gaze, the torches and containers of gasoline. Sartre's play begins with the victim searching and finding Lizzie, the one familiar face, the one face that can prevent the murder, since she can explicate the victim's innocence. We never find out the victim's name, why does it matter anyway? There is no difference between the innocence of one and the innocence of another. They are all black faces and 'a nigger has always done something' (Sartre 2000:22). So whether the victim speaks or not, there is no saviour, except in running, 'to run round and run round till they catches me' (Sartre 2000:12). The silent injustice can only be prevented when the silence is broken, yet the victim has no voice, or more precisely, no listeners. Lizzie is not with the crowd but she is in her apartment. Fred, or Evander, enters and leaves. There is such uncertainty about what Lizzie should do. We have two voices: Lizzie and Fred, where Lizzie is the possibility for justice and Fred the possibility for prescription. Fred never speaks to the victim in the entire play; the victim, to Fred, is silent. It is Lizzie who talks to Fred and angers him. He says:

They caught a nigger. It wasn't the right one. They lynched him all the same. [...] You've bewitched me. I was in the midst of them [the mob], I had my revolver in my hand, and the nigger was out on a branch. I looked at him, and thought, I want her. It isn't natural. (Sartre 2000:36)

Fred, the scribe, the voice of the mob, is angered by Lizzie's words. Fred is not the only voice that speaks, yet Fred wants her, he desires her to be his. Fred, in the end, does not murder the victim who runs and flees outside towards the mob. Lizzie tries to speak and even tries to prescribe by aiming a gun at Fred desperately trying to stop him from following the victim. Yet, as it is with the prescriptions and persecutions, Fred promises

her everything she may desire, as long as she does what he tells her to. Fred prescribes, and Lizzie joins the mob. The victim? He fell silent. His voice left the stage as Fred gave chase. The audience to the spectacle know little of the victim's fate. Then again, what does it matter, as the victim is no longer innocent, but is guilty. The victim, in a sense, dies with Lizzie's fading voice. The moment of death is the moment in which the voice fades. Tamora's sons are murdered. 'Stop close their mouths; let them not speak a word' Titus speaks before their death (Shakespeare 1984:183). Silenced by force, silenced as their throats are cut. Hercules wraps his hands around Cacus' neck and crushes his throat.

The running victim, the persecution and the public murder destroy that intimacy of which Bataille spoke, but make the victim seem intimate, like a sleeping lover. The voices that speak, Evander and Romulus, speak loudly, and what follows seems just. But I suggested that the other voice is needed for justice. Or, to be more precise, injustice needs to be proclaimed and explicated by a voice. Justice is silenced and abused. So once this other voice is silenced, the justice is mutilated, the mob silently gazes at the writer of history and the founder of myth. We have our familiar scene. The scene that appears as a gathering, so peaceful, as the crowd intently and attentively watches the hero and the founder. The scene, by now, hopefully is *obviously* deceptive, and therefore, no longer deceptive.

Justice is failed by deception in two ways then: the silence implies equality, whereas the inequality was explicated above; the victim is publicly murdered, stripped of all dignity and intimacy in that sacred moment which 'delivers me from the world that kills me [and] has enclosed this real world in the unreality of the me that is dying' (Bataille 1985:136). Death, here, is the moment in which the self is (finally) detached from all reason and the 'me' erupts into its uniqueness, into its infinite improbability as the me-that-dies. This moment, this uniqueness of the dying is turned into a spectacle.

The spectacular violence need not be differentiated for this deception as to whether it is retribution or contribution, whether it is Remus or 'the negro', whether sacrifice, lynching or execution: silent humiliation on the scaffold, up on the branch, or on the hill. There is nothing there but prescribed guilt. Even if that fate might be deserved, even if the death is not as tragic, is humiliation ever deserved? Is the morbid pleasure of the mob as they stare and intrude on the victim's self-encounter in death

really just? Is it anything more than a morbid pleasure? This pleasure is disguised by silence, by the fascination that fills the gasping lungs and unblinking eyes. A pleasure that Girard has disguised with more than spectacle and silence, but a spectacle that Girard has sanctified: the lesser evil, the only alternative to the sacrificial crisis! Girard's morbid spectacle is the morbid utility of mob violence.

The Greater Good

Utility is the one aspect of justice that has been described and, when looking at Girard's work, seems to be actually there. The utility seems to be more than merely a deception. The public and violent murder of the victim pacifies urges that otherwise would result in the sacrificial crisis. There are moments of such crisis, moments when prescription fails and reciprocal murder ensues. The story of Titus seems to be the most extreme. 'Neighbors who had previously discharged their mutual aggressions on a third party, joining together in the sacrifice of an "outside" victim, now turn to sacrificing one another.' (Girard 1977:43) How Hobbesian. Yet, unlike the Hobbesian Leviathan to suppress our violent desires, Girard offers us the ritual sacrifice. This is not very safe and does involve some death, mainly the death of the 'outside victim', the *Other* that has done little apart from being in the wrong place at the wrong time. The *other* victim is not common to the place.

But, does this resemble, even abstractly, the example of the utility in triage from the previous chapter? To briefly recount the problem: resources in the aftermath of the plane crash were too few to save every individual and treat everyone at the same time. As a result, those with the most severe injuries were left untreated as their treatment would consume the resources it would take to treat several other dying passengers. Those without life-threatening injuries are not treated either, as they can be treated at a later stage. The rescuers thus leave some few injured to die and others to suffer in order to maximise the lives saved. The mythical community does seem to follow a similar idea, if we assume the sacrificial crisis to be the failed triage, where rescuers simply treat who they find amongst the wreckage as we then assume a situation which leads to many more deaths, many more corpses littering the wreckage of the community. The ritual sacrifice becomes the choice to leave some injured to die. The injury is where we will begin to problematise the issue: the injury in Girard's account is the violent desire!

The plane crash is accidental, which is one of the assumptions that makes the utility just. The other assumption was equality. Utility, in order to be just relies on a sense of egalitarianism, that every person's well being counts as much as every other's. This is where lottery comes in: each individual counts an identical amount, so unless the sacrifice does save the majority of lives, it is unjustified. Also, utility becomes unjustified the moment any person's pleasure or suffering counts more than any others. This is peculiar, since, when talking of happiness and unhappiness, those most fundamental motivators, according to Bentham (1876), the sacrifice is an odd moment in which the unhappiness of one person becomes profoundly unequal, not with regard to the degree of the suffering experienced by the victim, but with regard to the crowd's desire to see the victim suffer. Utility seems to rely on the happiness and suffering caused by another circumstance, that is, by a plane-crash, by availability of education, etc. In the case of the sacrifice the happiness and unhappiness, the pleasure and pain, are the same. The treatment of an injury does not only implicitly result in the suffering, but it is, as if, the injury of one person is the very pleasure of another. Ronald Dworkin (1984) almost touched on this in his critique, or defence through amendment, of utilitarianism. Being based on the idea of egalitarianism and that no one's happiness or lack thereof counts more than any other's, utilitarianism becomes problematic when a certain person is more popular or unpopular and this affection or disdain has a dimension of happiness. The popular person's happiness in that instance becomes more or less important and the person's desire becomes disproportionate. This inequality transfers into the sacrifice, but in an extreme manner, as the entire crowd seemingly craves the violence done to the victim. The only dimension of happiness is the unequal importance and consideration.

The claim that the ritual sacrifice saves lives remains. There is that obscene element of utility that remains, but should not remain as 'justification'. This element might be similar to the lottery then. Everyone contributes to this intense sense of violence, this violent desire. In the lottery case, the just way is to either share it equally, or, in the case of the famine, which it is more akin to, ensure to maximise survivors (utility again!) by means of lottery. This results in the random choice of the one, who is murdered. None of the persecutions, the ritual sacrifices, the murders seem to randomly choose, seem to be disinterested. There is a hunt for the Other, for those that belong, but

are different. Black faces, Jews, Goths, Christians, witches, etc. This is not a choice that is random, but a choice that is passionate and unequal to the extent that Dworkin describes. Their suffering becomes the crowd's pleasure. It is their silence that betrays them, that makes them the perfect victim. Any lottery in the sacrificial rites, any random choice leads to the profane, imperfect sacrifice, that is, the sacrificial crisis.

There is yet another issue with utility I'd like to raise, an issue that has been hinted at previously. In addition to the unfair and unequal treatment of the sacrifice, which should be explicit by now, there remains the issue of foundation. Utility implies saving as many lives as possible. So it is conceivable that the most utilitarian action would be an action that avoids this instance of utility and that maximises happiness by avoiding the choice between a sacrificial crisis and a ritual sacrifice. The problem of the mythical foundation, that is, the lack of a singulars and the dominance of the common leaves us with the hope that there could be a community without foundation, a community that *is* together without having to *gather*. The very utility that justifies the ritual sacrifice justifies, and, if there is a desire for justice, demands, that the community abandon myth. And, when Bataille laments the absence of myth, and compares it to a myth, to the only true myth, what is not obvious is that the absence of myth is not a myth that requires the gathering of a crowd, but a foundation or myth that disbands the crowd. The crowd beyond the spectacular disillusionment is a crowd that leaves (or makes) space for a community without sacrifice and a foundation that relies on a different moment of multiplicity, one which Serres describes as 'composite' (Serres 1991:141). We will spend a moment with Rome as a mythically founded community, since we have arrived at the moment in which to break the foundation built on murder.

When I mentioned that the crowd leaves space for a different kind of community, what I mean to describe is that the crowd is completely disparate, without connection. That *community* has no *unity*, 'Rome has no unity [...] Rome is a collection. It is only a pack of repentant brigands in the wood of asylum [...] Rome has only ever existed as a multiplicity. It needed to be ceaselessly founded.' (Serres 1991:149f) And as Girard mentions neighbours directing their aggression towards the stranger, Rome was the city that, from behind the very walls that were built on Remus'

corpse, expels and excludes the *Other*. ‘The excluded third’²⁸ is the scapegoat’ in Serres’ (1991:150) words and remind of Girard, yet, unlike him, lament this state of restless foundation. From Hercules to Titus, Rome is uncertain. I guess this is the uncertainty, the passion, that Bataille admires and the loss of which he laments and names the absence of myth. Rome is Pandora’s box, reopened and resealed; opened by its disparate singulars, shut by the return of silence in the moment of murder. Despairing victims become the cure for a lacking hope with the failure of prescription at its heart. Horatius, the murderer of the Curiatii triplets, returns home, victorious. The prescription seems perfect as the corpses litter the ground. The silence of the crowd, as Horatius enters and aims to prescribe, is broken by his sister who begins to weep and calls the name of one of the Curiatii, her lover. In a fit of anger, in this eruption of excessive violence as a response to this crisis, Horatius stabs his sister! “‘Take your girl’s love,’ he shouted, ‘and give it to your lover in hell. What is Rome to such as you, or your brothers, living or dead? So perish all Roman women who mourn for an enemy!’” (Livy 2002:61) And again, Rome falls silent, and again it is founded through prescription, that volatile and fickle foundation.

What we desire then is a non-prescriptive community that has a different sense of unity and shares a place beyond the sight of the spectacle: a shared-space for shared-being. Might this be the utility that Girard never considers? Might this leave room for a myth that Bataille cannot see, or does not desire to regard, because it might not feed some morbid desire? Consider the foundation without death, the foundation that shares, that predates itself and is a realisation as opposed to a prescription.

If the ritual sacrifice can only be considered just when standing in the gazing crowd, neither a part, nor apart, silently gazing at silence, then it is justice through deceit. Opening the eyes destroys myth, and the end of myth leaves us without foundation. Yet, there is no utility that forces us to re-found and re-found, to murder and murder under the cover of darkness, under the cover of silenced victims, like the Odysseus covered by a fleece. There is the option of a different community, a just community that might allow for a just sacrifice. If this exists, it cannot be spectacular violence!

²⁸ This ‘third’ is understood to mean the outsider, or the Other. The ‘two’ are the communion, yet the third is not part of it. This might be similar to the Levinasian ‘third’ that complicates matters in the relationship of responsibility of ‘the One to the Other’ (1981:16).

We have escaped the tombs of Rome, leaving us disillusioned. Walking below Rome's foundation, in the caves that hide the victims, little hope for justice remains. We exit the cave like Plato, feeling blinded by the sun, the fire remains merely dim and unconvincing. Enlightened? Suffering is not shared in this gathering of the mythical crowd, so we have to consider another form of sacrifice, another form of suffering. It will be one that is less spectacular, but, hence, possibly just. The collapse of the myth, the collapse of the foundation and all the prescribed structures, lead to the moment in which the scapegoat is revealed, in which the victim becomes a martyr and the ritual sacrifice becomes a self-sacrifice: the death that is praised and revered, the death of Christ. The death of myths leaves us with individuals, with singulars, heroes, saints and martyrs.

6

DUTIFUL SACRIFICE

INTRODUCTION

The escape from myth should lead us to the self-sacrifice without prescription. Escape in a very real sense of breaking free from the utility of that false essence, that false prescription of the suffering without sharing that we encountered in the last chapter. But, having argued against the mythical sacrifice, of violence as spectacle, there is a sense of escaping, rather than having escaped. The momentum carries us away from the myth of utility and communion. The ‘absence of myth’ as Bataille (1994) calls it, is taking hold. The foundation of the just sacrifice in Girard’s account is no longer just; yet there is a sense of sacrifice that remains. Before dealing with self-sacrifice I want to consider the problem of the duty and the obligation to sacrifice.

Duty and obligation is not a different form of sacrifice entirely, it is a different aspect of suffering, one that has been associated with the justice of suffering. Instead of prescription of the suffering there is a prescription to fulfil a duty, which might then entail suffering. And it is this duty that is linked to justice. We need not depart from myth for this. We find duty in the stories we have regarded so far. Hercules, the great hero of Greece, faces the finitude of life: faces death (Sophocles 1994:199). After murdering Cacus amidst the crowd, slaying Geyron, destroying the Hydra and many other labours, Hercules now lies alone. What does he desire? He is in agony, inconsolable and unbearable pain caused by a poison. Subtlety marks the suffering; there is no spectacle, but still there is pain. It is violence that is quietly caused and

consumed. Hyllus sees his father and is struggling to accept the fate that has been assigned to him. Hercules describes it as a pain worse than that inflicted by any of his many enemies. This might not be a surprise as his labours saw him inflicting most of the pain. Hercules, now, is suffering without being struck by a blade. Rage. Where is his accustomed spectacle? Who has dispersed the crowds? His wife, who is held responsible, is cursed and Hercules speaks: ‘Look, gaze, all of you, on my miserable body, see the unhappy one, his pitiable state! ... Again, a spasm of torture has burned me...’ (Sophocles 1994:229) The failed attempt to invoke a spectacle, as the myth has passed. The crowds that gathered to gaze at the victorious Hercules, weapon in hand, standing over Cacus (or other violent monsters), now gather to gaze at the undeserved fate. The hero dislikes being the victim. He is not the prescribed victim, but merely a victim.

As Girard describes in the final passage of *The Scapegoat*, the ‘murderers remain convinced of the worthiness of their sacrifices.’ (1989:212) Hercules’ conviction that his wife, Deianeira, is responsible leads to anger as Hyllus mentions her. Hercules is still, even as he dies, prescribing, calling for justice whilst flexing his muscles in agony. Yet he no longer attracts attention and turns into another undeserved fate. Bodies litter the scene and plurality enters. Hercules has been foretold that he would die at the hands of someone already dead. Nessus, the centaur, had concocted the poison prior to Hercules slaying him. The silent voice that kills and dispels myth. What follows is a sense of duty. Unenforceable justice, the unmasked scapegoats silencing the spectacle, leads to the quiet prescription: ‘my son, you must fight at my side, and not wait until my words grow sharp, but comply and work with me, finding that it is the noblest of laws that bids a man to obey his father.’ (Sophocles 1994:239) Hercules utters this command. A command that implies their intimacy, as father asks his son.

I will engage with the legitimacy of duty at a later point. Now, the effects of this duty need to be observed. What does Hyllus do? Is Hyllus commanded or compelled? Hercules orders his son to take Iole as his wife. Iole, the mistress of Hercules that drove Deianeira to jealousy and envy, asking Nessus for the love potion that turned out to be a lethal poison. Hyllus is ordered to love his enemy! To love the woman that is held responsible for the death of Deianeira, who committed suicide upon realising what she

had done, and the death of Hercules. Maybe Iole still resembles a scapegoat, but the command is our concern. Hearing the command, they speak:

Hyllus

Unhappy as I am, how many perplexities confront me!

Heracles

Yes, because you refuse to obey your father!

Hyllus

But am I then to learn to be disloyal, father?²⁹

Heracles

It is not disloyalty, if you rejoice my heart!

Hyllus

Then do you order me in all solemnity to do this?

Heracles

Yes! I call the gods to witness it!

Hyllus

Then I will do it, and shall not refuse, showing the action to the gods as yours! For I could never be shown up as a traitor if I obeyed you, father.

Heracles

You make a good end, and on top of this swiftly grant me this favour, to place me on the pyre before another attack comes to tear me or to sting me!... (Sophocles 1994:247)

Hyllus, in this scene follows the duty and gives up his choice. Hyllus is commanded and his action becomes the action of his father. Hercules comes to an end by burning in the flames: one last immolation, one last set of flames to gaze at, one last spectacle. Duty obliges us and in a sense duty is obligation. But, we should consider duty both as a foundation, and as something that requires a foundation. We should require duty as the grounds for a convention, but also grounded in convention. The grounds for Hyllus' observance of duty are the relationship with his father. The sacrifice of choice is of interest, as it will return. Yet duty does not just sacrifice choice, but any form of sacrifice can be done from duty. Duty becomes the foundation of sacrifices and we have to consider the foundations of duty in order to see whether it is a just sacrifice that results from duty.

The remainder of this chapter will look at various forms of duties that claim to be just or fair. The section that follows will look at a second mythical foundation that is obliging and an obligation. It concerns the moment after Hercules is gone. We will regard an initial situation, a coming together in Rawls' *original position* (1972) and

²⁹ Hyllus refers to the disloyalty involved in marrying the murderess of his father, not disobedience. It is a dilemma for him. Disloyalty or disobedience.

why, to him, this is both a necessity for justice and the presupposition of justice. But maybe Rawls' 'myth', or, in his own words 'a purely hypothetical situation' (1972:12) is a sense of justice that remains too founded, too tied down to that moment in myth, to be universally prescriptive. Maybe we require a third myth, that of Kant. It might be wrong to call this a myth since Kant's account lacks any sense of being a myth of coming together or a myth of founding anything. Kant's account might be a myth for those very reasons though. Kant introduces a sense of duty founded in nothing but the transcendental self, and this self will be argued to be a mythical being, or a hypothetical being, at best. The hypothetical is starting to be similar to the mythic as we have discredited the actuality of myth as a foundation in the previous chapter, so in this sense Rawls and Kant offer an alternative, but one that is equally hypothetical, and hence, maybe equally mythical.

Regarding duties that are present in both the foundation and the very presupposition of the claim to justice I will hope to answer the question of how far an obligation is a justification, as with Hyllus, or if justifications are obliging. Kant is probably the most extreme case, but it will also be a case from which we can move to foundations of justice that leave behind the mythical and hypothetical. The section on Kant's categorical imperative is when myth will be dispelled as lacking what we desire when considering a just suffering and myth can either offer us unjust suffering, or maybe myths of justice without suffering, but never both of these combined.

But, with regards to duty, it will be more difficult to disregard it outright in its role of justice. With the ritual sacrifice the denial of any prospect of connection with justice was easier because the spectacle as foundation was shown to be an illusion. Duty on the other hand, even though it is argued to be problematic as foundation for justice, might still play a role. Duty, or obligation will find itself as a consequence of a just foundation, rather than justice as a consequence of an obliging foundation. This might allow us to conceive of a duty that is reflective, a duty that the actor can theorise, as opposed to the duty as foundation. We require a sense of duty to which, when confronted as to why I am doing my duty, I can reply more than merely 'Because I ought to.' We need to find a foundation that will allow for an action that I might not want to do, but am compelled to do by a sense of duty, which is founded in a sense of

justice. The foundation of duty or the consequence of duty as foundation will aim to show duty as a concept that has no ethical dimension when regarded in itself.

RAWLS

The Original Foundation

The original moment of agreement of what justice ought to be is essential for the concept of justice as primary and absolute. Unlike the justice of the spectacular violence, which was no unanimous agreement but a prescription of the common good, the justice of Rawls aims to be absolute as it applies to everyone, yet the applicability is strictly to every one as *individual*. So, in appearance, there is already a marked departure from the desire for communion in myth. It is just not because it pleases most people's desires, but it is just because everyone agrees on its justice prior to any experience that might cloud their judgment with subjective desires.

Rawls is looking for an original position in which people come together and decide on the principles of justice that are to form the basis of the social structure. He is looking for a deontology³⁰ based on a contract (1972:11). It is a justice that institutions follow and one that is fair. In this original position Rawls wants whatever choice is made to be just, absolute, non-utilitarian, preserving multiplicity (avoiding communion) and have a foundation in the real world. It makes sense to suggest the hypothetical original position then, the position from which justice is decided *a priori* (in a sense). There is a long list of conditions concerning what this position would be like. The conditions of this *choice*, a position of pure procedural justice (where any principles decided are just), are not intended by Rawls as conditions for justice though, as the choice is a spontaneous agreement on what is already given as just. It might be comparable to a group that agrees on the sky being blue, as opposed to a group that tries to establish what the colour 'blue' might be in the first instance. Justice is prior to society, so the first condition is that it is original in the sense of the first, the primary, the initial situation in which people come together. Why do they gather? The original

³⁰ Deontology, often associated with Kantian ethics, has its etymological origin in the Greek *deon* which means duty.

position cannot be a spectacle, so we are not talking of Nancy's (1991:43f) moment of gathering around the person that begins to tell a story. We are not talking of a gathering that constitutes anything other than those principles.

It is not the foundation of a community then, but it is the foundation of justice. For Rawls justice is essentially plural (1972:3), which explains the need for people to gather. They gather since cooperation is to their benefit in trying to further their ends that are in conflict with the interests of other individuals. This presupposes a limited scarcity. We are not talking about a dire famine (Rawls 1972:127). It is in this moment of scarcity and plurality that, for Rawls, every *one* realises a need for justice. This is a need that is absolute and a need for the absolute.

Plurality and the foundation of justice being antecedent to the foundation of the community leads to a disinterest in others and a concern for my own ends. However, justice being primary, there can be no prior conceptions of what is good for myself specifically and we are limited to a concept of 'primary social goods' (Rawls 1972:92) that are held to be as universal and *a priori* as justice itself. Also, as this moment is prior to the foundation of the community, anything arbitrary has to be ignored. The ignorance of personal desires and wants is fairly clear when considering the universality, however there is a problem uniting the sense of furthering interests in (as opposed to of) the self. Rawls claims that the self would be aware that he or she has goals and ends, but would not be aware of what exactly they are. Nor would he or she be aware of their position in society, of wealth, of friends, of loved ones, or anything that is subjective and arbitrary. These aspects cannot be considered, so the original position requires each and every one to be covered by a 'veil of ignorance' (1972:136). So the original position leads to a fair procedure, as no one is interested in anyone else or aware of anything beyond the realization that they are actors with aims.

Their decision in the original position will be a decision on a principle that will best allow them to achieve their life goal presuming they have one, but do not know what this might be. It is getting easier to grasp why this original position is a hypothetical one. The demands are too great for any actor in an actual reality to make such a decision, yet this foundational moment in which things gather for the first time under exactly these premises must surely be a mere myth, that is a possible event in as far as it is conceivable, but an event that is too clear and simple, and told with too much

passion and conviction to be realisable in any way. Rawls is aware of this: the event is strictly hypothetical and has never happened in this form. What counts is that in this hypothetical moment no one will be able to adjust principles to favour their own life goals.

What remains? Before we get to the problem of which principles would result from such an original position, we have to engage with a more difficult issue: justice is distributive. There are other kinds of justice than distribution, but if the principles are chosen in the original position, criminal justice makes little sense as crime requires principles of right in order to juxtapose wrong. Retribution makes little sense, since, again, it implies that something was defined prior to justice as right or wrong, as good or bad, as acceptable or despicable. Distributive justice, however, has requirements too: we need the limited scarcity mentioned before, but also, of course, a scarcity of something that is actually meaningful. It would make little sense to have distributive justice of sunlight, since it is impossible to distribute even though it is desirable. Alternatively anything that is abundant needs no justice, nor does anything that nobody actually desires (which in a sense is the same condition as abundance). Rawls, then, requires there to be something that people want more of in spite of the veil of ignorance. Rawls talks of fulfilling the people's expectations, but unlike utilitarianism, Rawls proposed a way of measuring these expectations. (Rawls 1972:90f)

The expectations of everyone in the original position must be similar, or I would claim the same, since everything that is arbitrary and might create specific desires or an awareness of being rich or poor, is excluded and ignored by the veil of ignorance. What would a person, that is, the representative person in the original position expect? He would desire goods that help him or her carry out their expectations, their goals and intentions, which they know *of* but nothing *about*. Rawls lists the 'primary social goods' mentioned above to be 'rights and liberties, opportunities and powers, income and wealth.' (Rawls 1972:92) In spite of their unawareness of their individual system of ends, the people in the original position would agree that these goods are essential in forming and executing these ends, regardless of what exactly they might be. Rawls calls these goods social since they are distributed through social institutions, which require the principles of justice at their foundation.

What about the decision of these people in the original position? We now know what is to be distributed in the moment of limited scarcity where a plurality of equally unaware and disinterested individuals enter the scene driven by their equal and sudden need to decide on what is just. We can regard this moment as a different option to the end of the spectacle and the moment in which Heracles' pyre has burnt out and those that gathered await Evander to return, to proclaim justice, yet Evander does not show. In their disoriented plurality they realise themselves to be one of many, unaware of what they want. This hypothetical instant is almost like a mythical awakening of people after a dazed gaze at spectacles has left them unaware and ignorant. However, for Rawls, the first order of the day is not an exchange or communication of who everybody is, it is an encounter without formalities or introductions. They are strangers and must remain so until they have decided what principles of justice shall be the basis of their association. They are obliged to choose the principles of justice; it is their duty. But we have yet to see where this obligation of the individuals in the hypothetical position comes from.

Principles of Justice

I will start with the outcome of the decision made in the original position:

'First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.' (Rawls 1972:60)

To specify this a little, people would realise that they need to give the first principle priority over the second, especially so that right and duties cannot get exchanged to social or economic advantage. This avoids any one person buying right over others. (1972:61) The benchmark then is a position of equality, where everything is equally distributed. Any inequality can only be the just when it is at the same time to the advantage of others.

The second principle is also called the difference principle (Rawls 1972:76). It is based on, and the basis of, what Rawls calls democratic equality.³¹ Using the principle

³¹ Since I am introducing terminology, Rawls' use of the sentence 'justice as fairness' should be mentioned, but since I argue his justice to be intrinsically incapable of fairness since nothing can be shared, I will not begin to use this term, since it will only lead to confusion. I might, on the other hand,

of fair equality of opportunity and the difference principle we arrive at democratic equality. The difference principle simply states that social divisions are permissible only when it is an improvement for everyone. It opposes the idea that I am allowed to make money to someone's disadvantage or even to someone's neutrality. I am only allowed to earn an advantage when I improve my situation *more* than others, rather than *as opposed* to others.

To get to this assumption Rawls disagrees with several other principles. A system of natural liberty for example, which is essentially a meritocracy, is a system of equality based on talents with efficiency in mind. Positions are awarded based on talents and they are awarded in order to maximise efficiency, that is, achieve the greatest overall gain (which is similar to utilitarianism). This system does of course allow discrimination to affect equal opportunities when talents are distributed unequally. However, positions awarded equality in the sense of fair opportunities with efficiency in mind, that is, a system of liberal equality, is still insufficient for Rawls, since it still allows arbitrary factors to infiltrate justice (1972:73f). The arbitrariness here is the natural lottery in society and in how far an individual is born with natural abilities and talents that are currently desired by society.

On his quest to avoid any sense of the arbitrary, Rawls introduces the difference principle, where any consequences of luck through natural lottery and any talents earned arbitrarily and therefore unjustly are also to the advantage of others. In this sense, talents are shared in as much as I have to share the advantages. The self itself is slowly stripped of itself in the search for justice as the individual self-interested 'I's' are increasingly robbed of what might make them a self (Sandel 1982:96f). This would not be as devastating if we were still arguing in the realm of the communion, but Rawls' concept of society and the self is at heart individualist. My talents are now no longer justly mine, but shared. They are shared because they are arbitrary and cannot be part of justice when they are individual and particular. My strength, my intellect, my ambition are all as subjective as my education, my wealth, my social status, my gender, my colour of skin, and so on. And subjectivity cannot feature in absolute justice. Equality in

occasionally refer to Rawls' theory as *justice from fairness*, as it presupposes an original position in which everything is fair. Following through from this, matters in the original position might not be fair at all, yet they are ignorant, so *justice from ignorance* could be an appropriate phrase, even though it implies Rawls to be ignorant, which is unintended.

this formal sense requires the two principles to reflect the complete ignorance of everything that makes an individual distinct. If the two principles rely on the idea of the self hiding itself away, then we have a sense of justice that can potentially generate injustice, as well as, fail to correct injustices hidden by the veil of ignorance.

So we could imagine a distinct group within a community to find themselves distraught at the unfair share given to them by the rest of the community, but the only means Rawls has of engaging with this is calling it an aspect of social lottery: a view that might be easier to stomach for those that are delighted at the sight of themselves once the veil is lifted. Those that find themselves advantaged see themselves as committed to the two principles out of a sense of self-interest to secure a fair share, not a commitment to justice. There is currently no communal goal and Rawls' justice might leave the hypothetical selves less happy once they come to realise themselves, but even if this is what they realise there is an every-growing sense of duty attached to the two principles, since the two principles are categorically true: their truth is understood prior to the self and thus independent of the self. A desire to be just becomes linked to an obligation to follow the two principles.

What slowly becomes apparent, however, is that the justice in Rawls is not absolute and primary, but it relies on the hypothetical moment in which the veil of ignorance is present. If we are looking for justice in a community, and a just sacrifice in a community, we find that Rawls insists justice to be prior to community, to be external and independent (1972:586f). It is irrelevant what kind of community exists at any given time, it must follow the two principles decided on in the original position. Rawls' argument is convincing when presupposing some conditions. The first is a very obscure self. Rawls hangs onto the desire to ground his justice in the original contract as a hypothetical situation that is nonetheless plausible and allows for real humans with desires and plurality. The self in the original position has little right that remains to be called his or her own as the original position denies the self anything distinguishing and even denies the self any sense of actual, genuine choice concerning justice. In the original position, given all the premises that are imposed and not chosen, every individual is identical, is equal. This leads to their choice being unanimous, but it is an agreement that is empty for it is the result of a lack of alternatives.

Instead of all arguing, discussing and then agreeing to the two principles it is instead a sudden realisation that this sense of justice is the only option. Sandel identifies this as necessitating a sense of ‘intersubjective being’ (1982:128 and 132) which is something that Rawls would have to deny as a community cannot be present in the moment of the decision and cannot play a role in the actual decision. Instead, for Rawls, there is a disinterest and a veil of ignorance, which are the only aspects shared prior to the concept of justice. Rawls seems to be troubled by the *a priori* which makes its way into his theory as his original agreement and his contract become a mere realisation of a principle that was in place prior to that agreement. This leaves Rawls without this justification of justice. The original moment is no longer original. Any differentiations that might lead to actual choice and distinguishable individuals are removed. Sameness in the last chapter was regarded as a source for conflict that required prescription, but Rawls has discovered sameness as a source of agreement by removing desires. Conflict in Rawls is absent because it is ignored in the moment when justice is conceived. Rawls’ concept of justice becomes independent of the original position, which now appears to be required only after justice is established, as a fitting situation in which the *a priori* principle might come to pass. This is where we might refer to Rawls’ justice as justice from ignorance. Rawls gives us two principles that become, in themselves, justice, and all the justice comes as a duty to follow these principles. Much like Hyllus cannot be shown to be a traitor since his actions become that of his father, the Rawlsian self that is obedient to the principles cannot be shown to be unjust since the justice is prior to the self, or in other words, the two principles are absolute, independent and universally true.

Community, Choice and Self

In spite of having some sense of Rawls relating to duty, there are two further aspects that now become central: First, reality and how the hypothetical original position relates to our actions in the real world, that is, in the society where the veil of ignorance is lifted. To put it differently, does reality undermine the principles and make them counterintuitive in certain situations? Second, I am trying to find the moment of just suffering, or the just sacrifice. How are others, now that the obligation to principles

allows for the possibility of suffering, explained to be suffering? What is the justice of that suffering?

Engaging with the first point we will look at Sandel's argument in some more depth, to then deliver us to a situation where we can look at suffering. Sandel arrives at the conclusion that Rawls and deontology in general are flawed mainly since they presume justice to be absolute (1982:179f). Rawls' reasoning for absolute justice, as I have noted above, rests on a combination of factors: justice, both as the need for it and the decision of its principles, is antecedent to society; nothing morally arbitrary is considered; any personal particularity is arbitrary; and the plurality of the people present at the moment of justice's conception.

Sandel's argument against the absolute concept of justice notes the dispossession of the individual and the common nature of all personal talents (Sandel 1982:80) which were mentioned above. This supposes a certain understanding of the self as sharing something, as being intersubjective. But since no individual possesses their talents, Rawls raises the issue of desert and entitlement. If I do not possess anything, but am merely a guardian of any possessions (Sandel 1982:97) I do not own the fruits of any of my labours. So, to put this slightly differently, if we were to agree with Rawls that talents, merits, skills and so on, are all hidden since they are arbitrarily given in the social lottery, then any achievements that stem from the use of these attributes are equally not my own. Sandel does raise the problem that this leads to some major issues in criminal justice. If Rawls claims that, since all talents are arbitrary we have no moral claim to them and if we have no moral claim we have no basis for justly deserving any advantages that result from them, then the disadvantages should be shared too, for example, my capacity to murder is arbitrary, much like my capacity to be industrious or thrifty. Why should I be punished as an individual for murder when I am not entitled to individually earned advantages? The other consequence of Rawls' presumption that the arbitrariness of the distribution of natural talent is morally irrelevant is that there is no moral imperative to share everything in common. If they are arbitrary, why ought they not be ignored like all the other particular factors? The reason that these talents lead to economic advantages and that these influence the equal distribution of primary social goods is not very convincing, as surely other factors which are merely covered rather than shared by the veil of ignorance have a profound

impact on primary social goods, especially when we consider the limits of the list of these primary goods that Rawls gives. Care and intimacy are surely as important as power and wealth and does family not influence these? Yet it would be too awkward for Rawls to suggest the individual in the original position to agree to share their families in common. It seems problematic to suggest sharing intimacy with strangers. It seems equally problematic though to suggest sharing personal talents (and their benefits) with others. In other words, Sandel helps to stress the need for a stronger sense of self. To him, however, this is not just the need for a stronger sense of self prior to justice. Instead, Sandel seems to imply that ‘justice’ in general might not be the most important societal virtue.

Instead of justice, Sandel stresses benevolence as an alternative, but, in a more extreme way, benevolence or concepts of good, will be the topic of the next chapter. The impact of Sandel’s arguments on Rawls’ concept of justice is quite devastating and it leaves the thesis with the task to salvage justice as something other than *good*; justice needs to be desirable as an alternative or complimentary concept. In order to recover justice though, I will have to look for a sense of community in Rawls. If we presume that community for Rawls ‘hypothetically’ originates in the moment of agreement, when the people hidden from each other realise they *share* their ‘blindness’ or ignorance and want to ensure that each of them will be given a fair share once they realise themselves, then, much like in the previous chapter, we find origins, rather than grounds, and the sharing that starts the community is not an active sharing, but a ‘having in common.’ The foundation of the community is a realisation that they are all the same, and in this state will all agree that the two principles of justice are the only means of being just. Once everyone has agreed to these principles and the veil is lifted, the sudden difference will always be built on sharing a duty and obligation to the two principles. From this starting point individuals can then begin to develop concepts of good that cannot however be in conflict with the principles that underline everything. Sandel (1982:134) argues that this is an insufficient explanation of the foundation of community and invokes a sense of foundation as grounds, rather than origin (in the sense of leading to): the very desire for justice or the realisation of having something in common rests on a sense of community and community as something good. The desire for justice is the consequence of a good, or possibly an aspect of benevolence in Sandel.

Benevolence becomes a concept that, for Sandel, allows a genuine sense of plurality that accommodates a desire for community and a common good.

Rawls and Sandel enter into a conflict over unity and plurality as well as the self and its ends. The dispossession of the self of all its talents creates the problem of unity over plurality. Besides the self that is master of its ends and completely independent though, which would be what the original position would require, we also have a self that is completely disempowered by the agreement that is entered, since it is entered by a self that gives everything of the self to some associative commonness that consists of little more than everyone being strangers. Rawls puts his theory in a situation where something has to give. Either the self as detached yet situated in the real world has to be given more than an empty dispossessed depth (which leads to a loss of universality) or a form of community has to be antecedent (which means that justice is not antecedent but contingent). If we try to find a self with depth we have to look at Rawls' concept of good, which includes the account of agency (in Sandel 1982:154). The good is situated in the choice of the individual in the individual choice of ends and is distinct to the hypothetical, yet absolute, original situation of choosing justice. The right, that is, the principles of justice, always prevails over the good, so in order for good to be good it is required to be chosen within the bounds of justice. Justice becomes a constraint on goodness. Rawls offers a very limited account of how much the person actually knows about itself, as his prime concern lies with 'deliberative rationality' (1972:416) and he points out that the 'definition of the good is purely formal' (1972:424) and what is solely considered is what rational life plan is chosen and how successful this choice is considering deliberative rationality. Rawls' individual is left purely with the capacity to consider 'what do I want?' rather than 'who am I?' (Sandel 1982:154f) as deliberative rationality is a contemplation about what I want and in how far my wants are good within the framework of principles. It makes sense that Rawls does not regard self-reflection in any deeper sense as this would imply a self aware of all its arbitrary components.

What happens in this assumption of the shallow self is that there is a lack of ability to choose in a genuine manner what I, as self, actually desire. A plan requires an awareness of position. A desire needs a foundation. Rawls seems to presume that desires simply appear as a set number of choices, which are simply there. The actor

cannot create a choice, but simply pick through deliberating rationally. If we assume that Rawls has founded justice, it is increasingly looking like justice detached from community, since, it being an absolute, circumstance has to give way. Good becomes a choice that maximises my personal good by aiding my chosen life plan, out of the set life plans given and all is set in the framework of justice. If the framework of justice were removed, the above reads like utilitarianism again. Within this framework though, good simply becomes a desire without foundation. Good loses any form of depth as the self is constrained by a hypothetical instance.

When we briefly regard the community that Rawls allows and permits we find a community constrained by justice, rather than enabled by or enabling justice. Justice becomes a duty or obligation. It might be argued that some constraints are necessary for justice and this thesis will argue that justice relies on a sense of constraint in the form of commitment, but Rawls' constraint is more profound than that. In a sense, Rawls' justice commits me, making it impossible for me to commit actively: we return to the idea of duty. The self is constrained by principles that are beyond the self's existence. The principles dictate a good that leaves the self with unfounded desires and the inability to theorise. Any desires that would be founded by knowledge of who I am will be unjust. Being confined to knowing what I want, I can relate to others (assuming I would ever desire so, considering that the principles of justice founded on mutual disinterest are my absolute concern) only by finding out what they might want, which they will be aware of. I cannot ask who they are; I cannot ask what we share; I cannot ask what constitutes us on any level other than our 'shared' hypothesis. I know not who I am. I know not who they are. Here we have found the prescription: those gathered in common are not empowered but dispossessed not merely of what they have, but also of who they are. Rawls' self need not be distracted by spectacle: instead Rawls obliges the self to erase itself and all others when justice is at stake.

Suffering

It is, for any singular self that is constituted by whom they are and where they are, a near impossible sacrifice to give up that very self. But is justice this demanding? Does justice have to be this demanding? But maybe the ignorance would run deeper and

the self would not experience the constraint as constraint. Maybe they benefit from their sacrifice. In a 'community' constrained by Rawls' very formal justice, the question of suffering becomes almost superfluous. Any concept of loss becomes a simple misunderstanding of which desires are permissible, so any sense of suffering stems from the attempt to stretch the self beyond the constraint of justice.

I should elaborate this point. When I am asked to give up a part of my income and I feel like I am suffering, or when I am asked to give up a position because I was arbitrarily advantaged, I have to realise that I do not deserve any of these justly since everything about me is a simple consequence of some grand natural and social lottery. I have to realise that I cannot suffer any loss because nothing is mine. I cannot suffer out of any sense of responsibility and I cannot suffer in any way that is just. All that is mine is the knowledge of a duty to act in accordance of the two principles. But does this resemble our moral experience?

When I considered the ritual sacrifice, the self as distinct was sacrificed in order to create something shared. If we return briefly to Girard and his fear of the loss of difference that leads to a shared and conflicting desire that cannot be settled without violence (Girard 1977:63), Rawls offers a solution that does not offer us a coping mechanism, but a complete prevention. The conflicting desires were avoided by generating a sacred difference, or, as I have argued, by distracting the crowd from their lack of difference by creating a spectacle. In the original position we would expect those that gather to then exhibit those desires that define them as individuals, desires that are irreconcilable due to scarcity. Romulus and Remus both desire the same: founding a grand city. How could Rawls deal with such a conflict of interest? Romulus and Remus, instead of violence, would have been stripped on any right to this desire that defines them. If Romulus and Remus would have stumbled across the original gathering of Rawls their history would have disappeared, their knowledge of what they desired would have disappeared and from some unknowing self the two principles of justice would have filled their minds. Awakening from their dream of ignorance, once the veil would be lifted, once they recall who they are, that they are twin brothers, all their desires would be unjust and no longer an option. Rome would have never happened: no foundation, no violence.

Rawls avoids the problem of justice by avoiding scarcity in a subtle manner: justice is not about creating fairness, or pursuing fairness. Instead justice is the preservation of a hypothetical equality in the original position, which can only be preserved by denying everyone the possibility to escape the framework set by the principles of justice. Rawls' justice seems to explicitly formulate a duty to follow two principles, but implicitly, the grounds in the dispossessed self, leaves the implicit duty to be content as long as people take their duty to follow the two principles seriously. The issue I raise is that the condition of this framework is a veil of ignorance, which, even though lifted, still dominates what is just or not. Rawls answers the problem of real world injustice through principles ignorant of it, presuming that we follow these principles. But can ignorance really be the answer to justice? Since the original position is hypothetical yet still a position, let us give it a hypothetical place and a hypothetical time. What if the realisation for a need to justice would have occurred in the instance that slavery was abolished and that slaves were free (as surely it did on some level)? As the veil of ignorance descends on masters and slaves alike all history and responsibility is forgotten: humiliation, suffering, exploitation, and the usage of the Other as means alone. How is this morally irrelevant? It is irrelevant because it is arbitrary, yet it is only arbitrary if we already presume the dispossession of the self, which in Sandel's argument seems an aspect of the difference principle. And we enter a sense of a myth without beginning. A justice that is absolute, yet its consequences are a part of its condition. As hypothetical as Rawls described the original position, making it the foundation of his justice makes it hard to escape when following the dispossession through to the reality of choosing goodness and desires.

It is no longer violence justified by the fear of greater violence, which created injustice with spectacular violence and utilitarianism. Justice is justified as a principle that is founded on its own consequence. The veil of ignorance creates a false equality making equality its consequence: the loss of difference is non-violent as Girard's reason for violence disappears: conflicting claims. Even though scarcity is an aspect and condition of justice, its real consequence of conflict is avoided by ignoring any inequality that might result from that scarcity. The original position as basis for justice creates an equality prior to justice, when it is inequality that requires justice. If we try to relate this to Hyllus' dialogue with Heracles: Hyllus finds himself confused with

conflicting claims since to be obedient to a duty is in fact counter to what the duty was intended to achieve. Yet, the beauty of duty is its sense of irresponsibility: father, my action that betrays you is your own; justice, my action that betrays you is your own. But what if we take one step further, what if we lose the original position as the hypothesis and almost find duty in itself. Is there a duty that is transcendent and genuinely absolute by loosing all conditions and constraints? Kant offers us a myth of sorts, but it is not the myth of foundation in any sense. Kant requires no veil of ignorance for an absolute justice, he only requires an independent self.

KANT

The Two Worlds and the Two Selves

In *The Groundwork of the Metaphysics of Morals* (1998) Kant introduces his concept of morality. A moral action, which is a right action and a good action, is also a just action. It seems as if morality in Kant's sense applies to justice. Instead of starting with his beginning though, I will begin with the end from where Kant drags the argument backward towards its beginning. It might seem a strange claim to make that Kant argues backward, but hopefully it will become clear in which way following his trails and tracks backward is more sensible than following them forward. For the reader of Kant, as much as for Hercules, following the tracks backward might reveal more sense. So we do not begin in the cave where the heifers are held by Cacus, but we begin where Hercules rests. We will follow Kant's argument, following his trail backward, like the trail of Hercules' herd of heifers (Livy 2002:37), trying to find the cave, trying to find what is hidden: good will as such. We begin with the individual.

Kant, in the final pages of the *Groundwork* introduces two worlds. It is a distinction that is also present in Kant's *Kritik der reinen Vernunft* (1966). It assumes that any object we see, is always experienced subjectively. I cannot perceive an object without myself being the subject of that perception. This subjective perception does distract from the assumption that there must be an object though. If I regard a table, I cannot actually see the table in itself, or the table as such, but instead I see the table as a representation of the table as such. Nonetheless, Kant holds the belief that there must

actually be a table as such. This gives us a distinction between the noumenal and phenomenal table, which exist, for Kant, in two distinct ‘worlds’: the heteronomous world of senses and the objective world of understanding (1998:56) These two worlds draw the line between cognition and essence. This dualism already introduces the loss of foundation in Kant since there is no essential argumentative requirement for a world of understanding ‘behind’ the world of senses. However, the epistemological challenge against Kant’s dualism is not what interests me here. The important assumptions are, on the one hand, that there is a world of senses which changes constantly as the subject changes, which can happen either over time, by simply moving or between different subjects; and on the other, that there is a world of understanding which stays the same for everyone, yet that world cannot be experienced or perceived.

The next (or previous) point that Kant raises is the perception of self. I experience myself in the world of senses through cognition. Yet, much like the table in itself I must presume a self as such, or ego. So, ‘with regard to what there may be of pure activity [...] in him he must count himself as belonging to the intellectual world [that is the world of understanding], of which however he has no further cognizance.’ (Kant 1998:56) This realisation and awareness of the aspect of the self that is not part of the world of senses is what Kant believes to be reason. We will encounter reason again. Corresponding with the two worlds, Kant develops two standpoints of the self: a self of sense and a rational self. (1998:57) Of these two, it is the rational self that realises itself to be free, as it is independent of the world of senses, where all causality conforms to the laws of nature. In the real world every effect has a cause has an effect. In the world of understanding, there is still a causality, however it is not the same. Since the rational self is a self in itself, it is governed only by reason, which is the basis of that causality. The rational self becomes free, becomes autonomous. Reason suspends natural causality.

Autonomy, Duty, and the Lost Tracks

when we think of ourselves as free we transfer ourselves into the world of understanding as members of it and cognize autonomy of the will (Kant 1998:58)

Autonomy is the very self in the world of understanding, where it is uninfluenced by inclinations and desires, where it is free of any senses and perceptions. This is not too unlike the ignorant self, but, unlike in Rawls, it is not hypothetical, but a metaphysical self. It is an aspect of all of us: the part of us that allows us to make an independent choice. Freedom, since it is objective, is the property of our autonomy that allows us individually to be a law in itself. (Kant 1998:52) If, on the other hand, we would subject the will as being part of the will of nature, we would find it to be no will at all; instead it would be controlled by natural causes. The will must be a cause in itself, and in the world of senses, become the cause of causality, if it is to be rational and autonomous.

As a result of the will being autonomous, the rational will holds absolute commanding power as it is uninfluenced by anything but itself. Remembering that Kant is trying to find the foundations of moral (and moral laws and guidelines) the absolute and universal character that is developing makes the will the cause of moral law, in a way that it does not have to be the object of the law; so the will is able to formulate laws about the world in general, rather than only about the will itself. (1998:52) It follows that I, as autonomous, become a lawgiver. This law giving capacity rests on my autonomous will, which it needs and which necessitates the law to be grounded in me, and nothing external. The moment my law is influenced by my desires, that is the world of senses, it becomes subject to their causality and I lose the power to pass a law and merely retain power to follow the law of nature (Kant 1998:47). My law, in such a case, would become arbitrary.

The self as a lawgiving self has a certain dignity and sublimity: sublime in the sense that it is possible, yet unimaginable and dignified in the sense that the self has respect for the law out a respect for the self as autonomous and lawgiving. So similar to Rawls we find a strong obligation or prescription, but unlike being founded in my self-interest in the hypothetical original position, it is founded on my autonomy and reason. My own law commands me as a duty to myself (not just a duty to two principles, since for Kant the self is the lawgiver), so that any action from my autonomy is a duty, any action that can coexist with my autonomy is permissible and any action that is not in accordance with my autonomy is forbidden (1998:46) It is every rational being that is a lawgiver. And Kant does acknowledge that there are people who might act in a way that is impermissible, yet this does not allow me to act impermissibly in response, since I

give my own laws, independent of the perceptions and experiences of the actions of others.

The step from this autonomy to universality is similar to Rawls' idea of an outright agreement to principles in the original position (Rawls 1972:140; Sandel 1982:130). As with Rawls we find a self that is beginning to be dispossessed of choice. When I act from autonomy and therefore rationally, every law I give corresponds to the law that any other rational autonomous action would produce. Since I act as a self in itself I ignore all subjectivity and my action from autonomy becomes universal. All rational actors together form a kingdom of ends (Kant 1998:46), which is the sum of all the universal laws to which all the individual rational selves are law-givers at the same time. No one follows the others' law, yet all agree, yet all are subject to the kingdom of ends. Any law given by someone and followed by someone else is not the self acting autonomously, even if the law is commanded by an autonomous rational being. It is quite clear why, according to Kant, I could only ever experience a law given to me cognitively, so even if I experience it as coexisting with my autonomy, it will only ever be a permissible action. To clarify: if I speak a law I have to speak it in the world of senses and others could hear it only as the law that was spoken, and not as the law as such. Once in the world of senses the law is constrained by causality, desires and the subjective character of the 'self of senses'.

Kant offers us, with the autonomous self, a universal independent law-giver. There are no material or otherwise subjective interests, nothing cognitive, sensory or perceptual to subjectify the laws. The maxim of any autonomous action will become universal law and autonomy becomes an end in itself. Any autonomous action must treat the self as subject of the kingdom of ends and as an end in itself. As such, an autonomous action becomes an action that uses 'humanity, both in your own person and in the person of every other, always at the same time as an end.' (Williams 1968:22) This is already a formulation of the categorical imperative. Autonomous action is a universal law, a categorical imperative, that is, a duty. The self-given law and autonomy accounts for all of the five formulation of the categorical imperative given by Kant (in Williams 1968:22) as an action that is autonomous in Kant's sense must have a maxim that a) I am able to will to be a universal law (which is almost the very definition of autonomy), b) I am able to will to become a universal law of nature (that is, the object

of the act is other than the self and part of the causality of nature; the autonomy as the cause of causality), c) uses humanity always at the same time as end, d) is the result of my will formulating a universal law and e) stems from me being a law-making member of a kingdom of ends. Put differently, the word categorical imperative is a shorter term for an autonomously given law and is obligatory and universal.

The categorical imperative is different from a hypothetical imperative though (Kant 1998:26), which should only be mentioned for its accidental irony concerning Rawls. The hypothetical imperative does not rely on autonomy in Kant's sense, but requires a hypothesis. If 'I ought not kill' is a categorical imperative, then what about 'Assuming I want to learn French, I ought to book French lessons.' The latter as a categorical imperative would be comical: 'I ought to book French lessons' as a universal duty. Kant compares this to a skill: if I want to achieve something, a hypothetical imperative is a skilful way of achieving it. As a consequence I would argue that Kant would regard Rawls' justice as merely a hypothetical imperative, resting on the hypothetical original situation. Rawls' justice is merely a skilful way to achieve what the original situation demands. It is here that Rawls loses universality and creates a presupposition that cannot be combined with justice as absolute. So far, Kant's metaphysics has retained certain universality where Rawls' contract has not.

Kant follows his universality (or trails his universality) so closely that he claims that there can be no good example of a categorical imperative, whereas examples for a hypothetical imperative are easily invented. The reason for this inability to speak of an experience of the universal law from autonomy is that this experience happens in the world of senses, so that any example of the categorical imperative can easily be claimed to simply be an example of a hypothetical one, governed by causality of nature (1998:29f). 'I ought not kill' could easily be claimed to be a shortened hypothetical imperative: 'Valuing life, I ought not kill.' This is a consequence of the categorical imperative resting on the autonomy of the self in itself, which is unperceivable. It is the maxim, or a condition, of an action, never a cognitive aspect of it.

What the two imperatives do have in common though, is that they must be expressed as duties. In the case of the categorical imperative this duty stems from a universal law that has as its foundation the autonomy of the self. Yet here I fail to follow Kant's trail. I have reached the end of clarity yet I have not reached Kant's

beginning. We desired to find the just duty, the good duty, which prescribes the just sacrifice, yet here we stand with merely a duty. Where is the justice? We have a universal law that is right for no other reason than its universality. Autonomy from the world of senses makes it universal, but does justice end up reduced to a mere consequence of a lack of choice? This makes justice too easy and undemanding. Any suffering would simply be necessary, not chosen. Maybe Kant did not intend to lead us anywhere but to universality. If this is the case he offered little universality for the initial and for him final choice: autonomy. If I can choose to be autonomous, yet that autonomy reduces me to a subject of universality 'free' from desires and inclinations, if autonomy robs me of that much, I can choose to deny autonomy. I can *will* my subjection to the causality of nature over the prescription of reason. For Kant, this would surely be wrong, yet right or wrong has not been mentioned so far. Kant convincingly makes autonomy the cause and the categorical imperative its effect, leaving Kant, like Rawls, in a position where universality is founded on something conditional.

Following Kant's trails the way in which he intended confuses this, as he drags the causes and grounds by their tails, leaving tracks and little more. Kant breaks this illusion in one moment in which he dispels the argument that his concept of autonomy may be circular (1998:55). The problem that Kant faces is the connection between categorical imperative, autonomy of will and moral law. Kant begins with the need for a moral law, a good in itself of sorts, a good that is autonomous. He then formulates the categorical imperative and tries to arrive at a satisfactory possibility of that categorical imperative by reference to autonomy. Nowhere, until then, is it clear why I should give up all my desires in order to be subject to laws just because I conceive myself as autonomous. The circle is strictly speaking the following: freedom is autonomy is lawgiving is autonomy is freedom. Autonomy in this sense merely combines freedom and lawgiving, but does not make autonomy imperative. For Kant, it becomes imperative only because he traces freedom to the world of understanding, which is the basis of the world of senses. It is the self in the world of understanding that is of a higher order than the self in the world.

But, this is unsatisfying as we now only find rationality to be absolute and still no connection to the good or just. Justice, even with the supposed necessity to be

reasonable for the sake of its reasonableness, is still unmentioned. What about the good in itself? The good in itself in Kant is also called good will. This leaves us with two issues. First, Kant either uses the word will slightly differently than the *will* which is autonomous, and a good will is simply a desire for benevolence, in which case we find it to be a hypothetical imperative and the good loses its universality and ceases to be absolute and 'right'. Or, second, Kant uses it as meaning the good *will*, which seems to be the case, but that leaves the question open what a bad *will* might be, as the good becomes a condition of the will's right. To clarify: if Kant uses the word *will* the same way and the will is absolute and universal, then the good cannot be a criterion but purely a description: the will being universal means that there cannot be a certain otherwise specified subcategory that is good, but instead *will* is *good*, and good becomes a description. The good as criterion of right would be independent of the universality of the will. When following the argument backward we find the universality of the duty to be relying on reason to be absolute. We can follow the trail of the will up to the point at which Kant begins to talk of the will that is good (1998:10) without qualifying its goodness or what makes it good. A step further along the tracks and we only find the good will (1998:9), but no longer the will that is good. They appear to be the same, yet a will that is absolute, but not necessarily good can still be a will that is good, but not a 'good will' in Kant's sense of a good in itself. The will is absolute, yet the good is not. So a will that is also good undermines the universality of the law of the will, but a universal good will undermines any genuine relation to good.

The argument of Kant seemingly works exactly the same when replacing good with evil. The evil in itself becomes a will that is evil. If we are looking at what we have to avoid in all cases, if we try to find the most undesirable action, it must be the evil in itself, the evil will. If the evil will must be evil in itself it has to be evil without any other factors, for then it would be an evil with other causes and other desires, it would be a lesser evil. The evil of the highest order, that is the highest moral depravity, is an evil that is autonomous. What becomes autonomous though? It is the threshold between autonomy as the source of duty and the source of the 'ought' that leaves the morality of the duty empty. Autonomous duty cannot be an absolute right, and unconditional good, simply because its very autonomy leaves it to be neutral. It gives us a lot of conditions for the categorical imperative, but without a good will in the ordinary sense of a

motivation to do good, a desire to be just which must stem from a self that desires, the categorical imperative becomes an empty duty, that is no longer a duty at all: without moral worth attached to reason in itself, without the world of understanding being the host of morality, its desirability as foundation collapses. Kant founds his argument on the absolute will, not the absolute good, in spite of this good will being the starting point.

I would argue that this loss of any concept of good or evil, of right boiling down to any self-imposed and self-prescribed duty without consideration for desires, is a direct result of Kant's loss of a concept of self. Kant loses any sense of self at the grounds of justice, as the absolute becomes the never experienced self in itself. Even the very expression, the self in itself, implies the complete loss of any others. The self becomes little more than a vessel for a universal concept of reason, beyond which there are only subjective desires which can hold no moral worth for their lack of universality. If Kant, and Rawls for that matter, would allow a sense of self as grounded and constituted by community and a common place, would allow a sense of self that is thick, rich and real, full of attachments and desires, that sense of self could become a foundation that is meaningful but not universal. Instead Kant and Rawls end up with prescriptive duties out of a sense of universality; whether ignorance or autonomy, the concern becomes universality over justice. Kant's argument is more extreme in its concern with universality, which has taken over any desire to find good; the only passion in the argument seems to be for the universality of a law through autonomy. Rawls' concern with universality is the more implicit foundation of the original position, without which it would not serve as an origin for the principles of justice.

It seems that we cannot find absolute justice, as the concept of the absolute engulfs justice within its universality. Any attempt at universality requires justice to be emptied out into a mere aspect. With Kant, only the universal law is universal, justice is not. This problem can be seen quite spectacularly in many attempts to reinvent Kant, as these attempts of bringing justice to the foreground inevitably sacrifice universality. Paton (in Williams 1968) seems to introduce motives and desires, which might coexist with autonomy. Yet any desire seems to rob the self of its autonomy and the laws given by the self are robbed of their universality. The only solution might be motivations that are not the cause of the action, so that the cause always remains to be the universal law,

in which case the self as empowered is merely decorative and justice or good will becomes decorative with it, and hence no longer necessary.

Neither Paton (in Williams 1968), Duncan (in Williams 1968) or Stratton-Lake (2000) offer a satisfying solution to either the primacy of duty and the absolute of the categorical imperative without neglecting justice, or the primacy of justice without losing its absoluteness. Duty cannot be a foundation in the search for the just sacrifice as it dispels all foundations for justice when trying to be antecedent. Paton seems to argue that the categorical imperative is simply a mechanism to ensure a concern for others, a mechanism to avoid selfishness, which seems to misunderstand Kant's meaning of autonomy as foundation (in Williams 1968:74). I cannot consider others if I am to act autonomously. Maybe then, the categorical imperative simply aids the actor in theorising his or her action. But, as such, Kant's autonomy fails. If the categorical imperative is simply a way to theorise an action, it fails because it theorises the action's autonomy and absoluteness not goodness. It theorises it without a foundation, rather than theorising its justice. But even if we disregard Kant and simply take the phrase of the categorical imperative it could be a guideline, but that would be as arbitrary as any and only leave us with a formal system of mechanising permissibility, rather than ensuring justice.

Yet, the question that remains to be answered is the connection of the duty to justice. Other than the ritual sacrifice, it is hard to dismiss any role of duty simply because we have ruled out duty as a foundation. Maybe a duty properly grounded can be of significance.

DUTY

The final section of this chapter will aim to find a space for duty within the concept of justice. This implies that duty is a consequence of justice or fairness in some form or another, rather than duty in the three forms we have discovered so far, where duty is a presupposition of justice. When I mention three forms of duty I am referring to Hyllus' duty (to which we might add the soldier's duty from Chapter 4), Rawls' duty and Kant's duty. I have argued against these duties as foundations of justice, but a critic might note that they are not the same duty at all. I will try to summarise the duties in order to find their common ground, the one factor that makes them so problematic.

Hyllus, or the soldier, is given a command. They are told to do an action, and, in many cases this action is counter to the individual's desire: in the soldier's case personal safety might be a desire, or hesitation to shoot a fellow human being, even if in self-defence, or desiring to return home to their family and so on; in Hyllus' case it is his desire to oppose marriage to the person regarded responsible for Hercules' and Deianeira's death, namely Iole, and it is the desire to honour his father which conflicts with obedience. But beyond all the perplexities and dilemmas that young Hyllus faces, it is the command of his father that becomes the basis of his action. His choice involves contemplation and thought concerning his desires. Hyllus does not want to be a traitor (Sophocles 1994:249), which is a concern that is already beyond any consideration of Rawls' and Kant's self. In addition the desire not to be a traitor would also resound with the soldier's duty. So far Hyllus' duty and the duty of Kant and Rawls have seemingly little in common. But then Hyllus explicates that it is following the command that absolves him from being a traitor. Obedience, that is, untheorised following of a command or duty, absolves responsibility.

Let us return to Sandel's critique that Rawls' actor has only a limited scope for self-reflection (Sandel 1982:159f). The self is simply becoming, what Charles Taylor calls, a 'simple weigher' (in Sandel 1982:160) that is not able to engage with questions such as 'who am I?' I have mentioned this above and the relation to the primacy of justice becomes clear as the two principles become a framework for choice. The primacy of the principles allows us mainly to consider how best to achieve the life plan chosen from a predefined set of choices that justice commands. It is now increasingly similar to Hyllus. His command allows him to choose his good within the framework of obedience. He will marry Iole, yet he is 'free' to choose how best to marry her. The moral actor is bound by obedience. Rawls' insistence on the universal and antecedent nature of justice, his insistence from the very beginning that 'Justice is the first virtue of social institutions, as truth is of systems of thought' (1972:3) leads him to revoke any reflectivity from justice. Justice when founded in duty becomes mere obedience.

We find the same problem when returning to Kant. I have argued that his universality becomes the overbearing concern and consequently the overbearing force of his argument. Obedience to my rational, yet inexperiencable, self is at the heart of his categorical imperative. The relation to this imperative and good relies on the assumption

that no evil can stem from a rational thought, and therefore, no evil can enter the world of understanding. Binding evil to the world of sense is as convincing as obeying a father or Rawls' principles. The three duties all seem to focus on the universality of the duty and the over-riding importance of obedience. In a sense, they all presume justice to necessarily be a pure procedural justice, that is, a procedure that regardless of what is decided through it, will produce a just outcome; a procedure that, as long as it is followed, relieves the actor of any responsibility. But maybe pure procedural justice that is universal in its application fails through its demand of obedience as a basis for justice. Maybe it is this concern for a pure procedure that leads to Rawls' almost comic statement that the two principles he proposes as universal have 'enormous advantages over that of benevolence and knowledge ... [since] the latter is so complex that no definite theory at all can be worked out ... [and] the motivational assumption requires clarification.' (Rawls 1972:148) A command that has to be obeyed and a command that supposes that obedience produces universally just results must be simple, since any complex command confuses, and worse, allows for variability. Maybe this is why in all of the above the duties are simple and universal. But what if we suppose justice not to be simple and not to be of any higher universal order. What if justice is complex and banal?

Duty, if it is to have a place that is not universal, is required to be reflective: this is meant in two ways. First, it is required to be reflective of the circumstances of its application, that is, it cannot simply be obeyed because some authority commands it. Second, and this is a consequence of the first, it requires an actor to be reflective. Maybe, in a very real sense, the duty ceases to be a 'must' but becomes an 'ought' in the intuitive sense. Kant's use of duty as 'ought' is slightly misleading since the 'ought' becomes an imperative command that *must* be obeyed, and the only reason why I might not obey it is considered a failure of being a rational self, that is, a failure of myself as free. When I consider the duty to be an 'ought' it is meant in the sense that I am aware of alternatives of action, yet, considering these with respect to myself, I feel compelled to act justly. The desire or feeling of compulsion presupposes a sense of plurality. Duty has to be founded in being singular, or an orientation to community that must strictly be antecedent to duty. Our concept of duty here becomes founded in the concept of the

singular community, as duty requires the self that acts to be aware of the community and the singulars *sharing*.

The necessity of a reflective duty for justice introduces a duty relying on a self that is more distinct and individual than any of the universal selves proposed by Rawls or Kant. Yet this newly introduced strength of the self leads us to consider the just sacrifice as an individual sacrifice set within a community. Moving the focus away from the action of what a just sacrifice might be and towards what a just actor might be, could possibly lead to the actions of a just actor to implying what kind of sacrifice we should consider. The self as suffering for the community will lead to two considered problems: the hero and the saint. They are all distinct, yet, in the next chapter, I will argue all of these to be unsuitable for the concept of justice as shared-being at the heart of the concept of the just sacrifice.

7

SELF SACRIFICE

INTRODUCTION

The last chapter finished with the rejection of duty and also introduced Sandel's (1982) critique that argued benevolence to be a possible alternative to justice: instead of principles of justice that are founded on a concept of duty or universality, a similarly desirable society or community could exist that centres on benevolence. If his claim that a theory of right is about what distinguishes us and a theory of good is about what connects us (1982:133) is convincing at all, the concern with the good might allow us to find a sense of justice and suffering that is fair and that happens within a community that can accommodate that suffering as shared: finding *good* could show a suffering which connects us and is founded on connection.

The chapter on justice and the chapter on the ritual sacrifice have already briefly considered what is often thought of as a goods based theory: utilitarianism. However, the utilitarian approach as the sole answer to what makes suffering fair has been dismissed for its complete denial of the self: a self that is, so has been argued, differentiated only in the moment prior to its suffering. The utilitarian suffering, the majority condemning the Other, fails to allow for that suffering to be shared. Instead utility was reduced to a tool when the anonymity of a situation provides no rich selves, but, like in the example of the plane crash story in the justice chapter, provides only victims. But, the concern for the self means we should consider good in a non-utilitarian

sense. For Sandel it is not a question about whether ends justify means or means justify ends, as it seems to be with utilitarianism and deontology. Instead it seems to be a concern with a good that forms a genuine connection to, concern with and care for others. Sandel's ideal then seems to be a community with a stronger bond, where the self is not radically different and community is not some burden for the self concerned actor (1982:148).

However, by the end of this chapter, I will have challenged the connection between the good and a strong communal bond. To that end, this chapter will begin by regarding this concern with the good and the concern with the other on a basis of benevolence, maybe as an alternative to justice or even as a foundation for justice. Unlike the utilitarian good, this good focuses on the actor as agent. Unlike Girard's violence done to the sufferer (1977), that is, unlike the scapegoat (1989) that is blamed, we are concerned with the actor that willingly suffers, or, the actor that gives, rather than the community that takes. Yet, there might still be resemblances and there might be occasions when the sufferer, even though suffering willingly, might do so in a manner that resembles the spectacle previously discussed. So, apart from introducing a new possibility for the just sacrifice, this chapter will also be shifting perspective, from the action to the actor. Can the actor that suffers be considered to be sharing this suffering? So far I have argued that the concern with the ritual sacrifice is founded on the illusory hope for an intimate community focusing on the action that was performed in order to sustain and create this illusion; an illusion that swallows and consumes the individual, even if merely ritually, rather than literally. Duty focused on the action in a similar way as the focus lay with whether or not an absolute set of principles that become a duty could be a sufficient foundation. Even though duty was devoid of any sense of intimacy, the focus lay with the action and not the actor. As Sandel noted, it radically placed the actor as individual, yet I argued that the universality of the principle denied any real singularity, especially in Kant, but also in Rawls' dispossession of the self. The focus of this chapter on the actor and on actor-based theories of ethics might offer a chance of founding the justice of a placed singular.

Put in a different way then, this chapter will consider the self-sacrifice (that is the self's sacrifice) and it will aim to relate this action to the three main concerns: justice, suffering and community. The self-sacrifice introduces the actor as doing good

and not as suffering as the first concern. It is no longer the good that demands suffering, but the suffering itself establishes good. This reversal also implies what Sandel was arguing for: a theory of good as one that considers what connects us. The self suffers for others and that suffering is considered worthwhile by the actor and considered worthwhile by those that he or she suffers for. This undoubtedly presumes a connection between the actor and the others, a connection that will be considered. However, even if this connection can be argued to resemble the community of placed singulars, it remains to be seen whether that makes this form of sacrifice fair or whether the good and benevolent actor will always remain an excessive sufferer as opposed to a just one.

This chapter will only look at the self-sacrifice motivated by a desire to be good, be just, be virtuous, etc. It will aim to avoid a self-sacrifice that is simply the result of a non-evaluative conviction for either of the other moral principles. A sacrifice by someone aiming to do his or her part for the categorical imperative or for utilitarianism, say the victim or scapegoat that willingly accepts his or her fate as a consequence of a prescription, will be avoided. Maybe they seem equally relevant, but their suffering will not necessarily stem from the evaluative demand on the actor implied above. This chapter will try and stress this evaluative element of the self-sacrifice and will consider a self that suffers after having regarded that suffering's meaning and desirability to some extent. The connection to the community in this evaluation will be problematised.

The examples that will be looked at are all strictly single actors, sometimes even to the extent that they seem purely ethical and occasionally unconnected to justice. This concern with the good over the fair or just will be central in the argument that is put forward: the good is excessive in its nature, which is no judgement concerning its desirability but a claim about its unsuitability for being a foundation for a fair or just *sharing*. In terms of structure, the first section will look at the excessive: the first character that will be considered is the hero³² who will be distinguished from the second character, the more saintly sufferer; following these the section will look at the least problematic form of excessive self-sacrifice: lovers suffering together. Even though seemingly irrelevant to justice, this section hopes to relate intimacy with excess,

³² The word 'hero' will be used strictly as ungendered in spite of it being one of the very few words in the English language gendered in this manner. Much in the way as 'actor' is used without distinguishing potential differences to 'actress'. Put differently, I will use the word 'hero' to express both 'hero' and 'heroine'.

underlining the need for a communion if the hero or saint are to be 'fair' sufferers. The section on moderation will then move on to virtue ethics as an ethical theory that focuses on what is good, but that is also a theory that explicitly aims at moderation. I will consider virtue ethics as a possibility to salvage *good* from its excess, regarding virtues as a possible foundation for justice as a mediated good. I will try to illustrate the various concepts and mechanisms employed to achieve this moderation with the hope to show their reliance on the idea of the self and the Other as juxtaposed rather than connected (in the manner that Sandel argues).

This chapter employs examples not to be exemplary of either heroes or saints, but merely some examples of many; I simply offer some examples that support and illustrate an argument. To that effect, the examples might occasionally be of a seemingly comical precision and inconceivable to ever occur, but some of these examples are, in doing so, aimed to make a point about the tendency of some virtue ethicists (such as Hursthouse, in Crisp 1998; and Swanton 2003) to use such elaborate, extensive and implausible examples. This is also the first time where I should stress that, even though I will argue that the often excessive nature of these actions will, in various ways, make the hero's and the saint's choices unjust, they are still valuable and desirable, especially in situations where they compensate for injustice (rather than supplant justice).

At the end of this chapter, all that will hopefully remain is a concise question that will then be answered in the final chapter. This current chapter will distil the issues with suffering to the problem of differentiation and the difficulty of shared suffering. Regarding the stronger and richer sense of a self will be the biggest contribution to the argument over all, but it will also be the final step in developing the main issue that needs resolving. Whereas both previous chapters looked at two forms of disregard for the self, this chapter on self-sacrifice will see the self as empowered, explicating the juxtaposition of the self-other that has been haunting the thesis. Once this is explicated and its effects on understanding suffering are theorised, the final chapter can look to overcome the problem raised below.

EXCESS

Heroes

To distinguish the hero from the saint I will simply paraphrase and adopt Lawrence Blum's (1994:80f) account of the distinctions by Murdoch, Urmson and his own version. There are two factors. The first: the hero is to be considered a 'responder' and the saint an 'idealist' (Blum 1994:83); which partly impacts on the second: the hero is associated with risk whereas the saint is associated with suffering. This definition also makes both the hero and the saint imply something supererogatory in Kant's sense. That is, they do something morally extraordinary or beyond duty, but why exactly the hero and saint need to be supererogatory will become obvious. What supererogatory strictly means is going beyond either duty or what can be reasonably expected, which, for this thesis are vastly different concepts. Either understanding already implies the hero and saint as persons who act excessively. But this still might work well with the argument of the previous chapter, which has been strictly against context-independent ethics that rely on some universal or absolute principle, duty, rule or command. The hero in particular can be regarded as responding, which already explicitly relies on a context. Having argued against these universals and absolutes, against duty and the like, it seems important not to deny the importance of the idea of the supererogatory. Maybe the exceptional or excessive is an indication of what is needed. This permits us to consider exactly the actions that Kant and Rawls would have considered as morally insufficient or unjust, but could simply be described as good and benevolent. Thomas Nagel comments that matters boil down to the irresolvable conflict between too much and too little, and that, in a sense, the universal principles cannot answer the hero's question as it cannot categorically and context independently claim that he or she should help or need not help (Nagel 1991:49).

To press the issue of the excessive and Kant further: what if I was to look towards the categorical imperative for help in a certain case. Presume I walk on a short yet busy part of the road without a paved pedestrian part and very bad visibility to see oncoming traffic on the opposite side of the road. In my attempt to quickly walk along the side I am on, I spot a cyclist who has fallen. Knowing only this, the categorical imperative offers me little help because I can surely not categorically prescribe that

everyone should in such a case risk their own life to aid the cyclist in getting up. ‘I ought to risk my life to aid a cyclist’ is no imperative. In the time I spend considering this and all the various context specific variables I need to introduce to make this a functional categorical imperative, the cyclist gets up and resumes his or her journey. I cannot will this great risk to become a categorical principle, but the only alternative is ‘I need not help, but may do so if I please’, which offers no direct guidance. The categorical imperative that I should *not* help, which is distinct from the not needing to help, cannot be desirable either, since how would anyone ever help another person, and a large number of rejections come to mind, for example: if the person that fell off the bike is a close friend it would be permissible. And we arrive at context dependence again.

The morally good actor, or, to stress the above difficulty for deontology, the morally exemplary actor who does what is good beyond the ‘good’ that follows from principles and absolutes does act unjustly in terms of deontology and might on occasion even act counter to the utilitarian guidelines of maximising good. The supererogatory is the *exemplary* of the good action and the only way in which the *absolute principle* can accommodate a *fine* example is by arguing that it could inspire people to become moral in an overall immoral community. This should be understood in the sense that, taking the example of a Kantian world, if very few lived up to the standards set by the categorical imperative, those that did would be exemplary, yet strictly not supererogatory. This way of arguing for the supererogatory might recur when discussing justice and excess further, but for now it is only important to know that there can be leading examples that might not be excessive when considering duty, as it is conceivable that only very few are able to follow their duty. Yet, these few actors that manage to live up to the principle and are exemplary would still be no hero, as, at least according to Kant and Rawls, those that fail to be moral would be aware of the failure, at least when confronted with the principle: they would regard the hero and be aware that they should have done the same. The hero on the other hand, in spite of comments such as ‘everyone would have done what I did’ when prompted for a motivation, does something that others would regard as too demanding and cannot see themselves as doing or being obliged to do, maybe admiring the hero all the more for that.

This is where we need to consider the term ‘everyday hero’. This suddenly seems contradictory or paradoxical since the moment we call a person a hero he or she surely is no longer ‘everyday’ in the sense of ordinary and mundane. The hero instantly escapes from the everyday. It becomes important here to distinguish the actor from action and focus on the actor. The action is not everyday yet this might not make the actor extraordinary, nor does it imply that the actor was extraordinary prior to the action. We return to the distinctions between saint and hero and this becomes more of a spectrum and the ‘everyday’ is in reference to the person who performs the ‘extraordinary’ action. To this end it might even be surprising to the actor as suddenly he or she responds to a situation and does something heroic.

A related problem with regard to the everyday hero is whether the moral worth of the action is influenced by the moral excellence of the actor. Is a hero’s action always inferior to the saint’s on the basis that the saint has a morally exemplary character that makes him or her more than merely a responder? The problem also falls into the category of qualification and readiness. If a hero hesitates a moment realising the grave risk, but then overcomes that fear and still helps, is this more or less praiseworthy than the fearless hero who boldly helps not halting a moment to consider the obvious risk? So, let us use a simple example. A person wanders along the beach on a warm but stormy day on which the waves are rushing in from the sea and the currents are obviously strong and fierce. This person, looking out onto the sea, suddenly notices a hand waving for help, a hand that then disappears, but reappears as if the swimmer is struggling to even stay afloat. The person on the beach then swims out and manages, against all the odds, to help the drowning sufferer to the beach, where after some moments of recovering the sufferer throws his or her arms around the helper, the hero of our little story. We can imagine this hero to be an honest, law-abiding person that is caring, an avid recycler, someone who would always drive carefully, and so on, but usually does not do bold and daring things, such as extreme sports or the like. Or we could imagine the person to be a thief, who had just robbed an elderly couple, and robs to fund a passion for risky activities, yet, when seeing that another human being was at risk of death, helped. Blum (1994:67) talks of the moral hero as someone who, besides the desire to do a certain good action and pursues it in spite of danger, also is faultless in a certain sense. But, in the above, does faultless mean a life devoid of excess?

The superhero could be a faultless hero and is other than the everyday hero in that, beyond the action being excessively just, or unjust, or morally exemplary, the superhero performs these actions regularly and responds continuously. Also, and in addition, the superhero is distinctly dispassionate. Whilst the hero might have saved the Other who was a stranger, this strangeness did not necessarily last as the shared experience of the saviour related the two singulars. The everyday hero might accept an invitation for dinner extended in gratitude. The superhero is selfless, and hence dispassionate, so a saved person is strictly ‘an’ indefinite other, rather than, through the saving, ‘the’ definite other that he or she has saved. Yet, if this dispassionate and continuous commitment to heroics is faultlessness, then qualification must be a part of being a hero: we cannot imagine a particularly unskilled hero surviving very long. But presuming that faultlessness of a hero is dependent on continuous heroism we would also have to look at the everyday hero as no longer a hero in Blum’s sense. We need faultlessness to be some form of moral commitment instead of excessive heroic actions. If this moral commitment centres on the avoidance of excess, however, it would make the heroic action more uncharacteristic for the faultless person, such as our balanced, caring and recycling rescuer. But it is exactly this that makes the hero appear heroic: it is an action that exceeds the standards of faultlessness, so a hero can be argued to be ‘faultless’ but the hero also needs to exceed that very criteria.

But is what that ‘everyday’ hero does fair or just, or is this excess necessarily counter to justice. The reason why we desire the hero to be an everyday person rather than a superhero is that we can stress the relation to the suffering of someone who does something considered excessive, yet who is an ordinary member of that community. The importance of the relatedness to the one that is saved is essential to justice, as has been argued in the justice chapter. Intimacy is a distraction for the friend and helper who spends most of the stories chasing criminals and saving planes that are falling out of the skies. The superhero is no ordinary person. Having said this, the action, in order to be considered heroic needs to be more than what is required or expected of him or her as a member of that community. The issue is the risk to the helper, as the risk is not a risk that the helper is trained or employed for. Not helping when there is no discernable risk is even considered a crime in some legal systems³³. The everyday hero is a member

³³ For one such example see paragraph 323c of the German book of criminal law (Tröndle 2007)

who does something exceptionally good. Presuming the hero would be exceptional in this way then how does this suffering or risk appear fair: does membership qualify its fairness, does it create an intimacy, does it exclude the hero from the community? The relation of the hero to the community, the hero to the suffering and the hero to the sufferer are what we have to focus on, rather than the more ethical concerns over the exact degree of excellence of this action.

Differentiating just (fair) from the good (supererogatory), the heroic action as excess will create the hero as someone who irreversibly becomes thanked. If the saved being would simply get up and walk away it would offend the sense of fairness as the helper risked such a great deal. We will consider a different, less plausible example later to draw out this difficulty. The helper does something exceptional, yet does so without being asked to or in any way obliged to. But, suffering in the sense of justice would have to consider suffering as a transferral: I do not suffer in vain as my suffering diminishes the suffering of another. The hero risks suffering but can avoid it. In a sense the hero's success is measured by the success of this avoidance. The everyday hero who saves someone and risks something becomes an ever less just example as the hero does more than is expected, yet, if successful, does not suffer, saves the other and (presuming the drowning person wanted to be saved) is thanked, making the saved person feel a sense of indebtedness: 'You have saved my life, I am eternally grateful'. This exposure to excessive risk creates a strong sense of inequality that cannot be qualified as equity either. A person does more than is expected which in itself goes beyond what equity could ever demand and the result is not one of fairness or equality, so even if we approach the example from the premise that the suffering was unequally shared, the result leaves the hero not as 'equal' in the strict sense, but as saviour to whom a debt is owed. The heroic action upsets equality of relations within the community by creating an unfair equality of suffering. Suffering is shared; but that very process of unjust suffering that is shared differentiates the hero from those he or she saves. The saviour suffers for the Other, yet the Other never suffered at the hands of the saviour. The non-reciprocal relationship, the relation of the helper to those that he or she saves is the differentiation.

There are two ways to try and share this suffering in a manner that would not differentiate the two members and both become comical when we consider them as

examples of heroism or excessive risk. Firstly, the drowning person could save the hero and helper in the future (effectively making matters fair, to an extent, even though the hero who is saved robs his or her saviour of a sense of voluntarism). Secondly, the hero and helper could negotiate terms and conditions of the rescue.

Looking at the first option, returning a favour, at first, makes the situation seem fairer, yet, does it unite the two people involved again? More importantly, arguing from a purely reciprocal perspective, will the second person's decision to return the favour be comparable to the original supererogatory choice? There are two options then. Let us call the two people Person A, who saves Person 1. I will try not to call them Person A and B because it implies a sequence and some sense of priority given to one over the other. Person A saves Person 1, as a result Person 1 is indebted and thanks Person A. Telling the story to a friend, Person 1 even manages to get Person A's heroic act to be published in a local newspaper. Person A is invited to Person 1's house to be introduced to the family of the saved. The gratitude and happiness of being saved means that they open the finest bottle of wine that Person 1 owns and the family thanks Person A repeatedly. The story is recounted many a time and a lot of questions are asked, especially concerning Person A's heroism, motivations and so on. This might make Person A feel uncomfortable since the motivation of the action was not one of seeking fame or gifts or the like, but it was simply to save Person 1 who seemed in need of help. Of course Person A was glad to share the happiness that resulted from the risky but lucky act of bravery. Yet, no friendship really develops as, not only do Person A and 1 have little in common, but most conversation and communication between the two simply builds on the saving of Person 1 and seems to differentiate the two, never allowing them to relate. But, it so happens that, Person A, unfortunately, crashes in a car journey along a small country road and is trapped in a burning car wreckage, barely conscious. As our fantastic coincidences have it, Person 1 drives past. Person 1 can either recognise the number plate and realise that it is Person A that is trapped and the indebtedness pushes the fear and hesitation away and Person 1 saves Person A out of the wreckage. Alternatively, Person 1 could be oblivious to who is being saved. The first option makes for a less heroic act, but mainly a repayment, a sense of fairness or maybe even obligation. The second option is more parallel and mimetic to the original saving of Person 1 from drowning.

But what about the fairness of consequence, surely Person 1 will receive gratitude and Person A will be thankful, yet, all stories of the second heroic deed will be in the context of the first, maybe making the second deed less heroic, but allowing the two people to share a more reciprocal relationship. The biggest issue is that of a retrospective adjustment to Person A's heroism, that is, should Person A's deed demand less gratitude retrospectively and does Person A have some sense of making up for all the efforts spent, the meals prepared and the gratitude expended in light of Person 1's heroic deed, that is, in light of the two people now being 'even'? This problem might seem slightly problematic and unusual, yet, put in a context of suffering it might be easier to understand: consider two different people, Person B and Person 2. Person B caused Person 2 a great deal of pain, without a desire to do so, which led to Person B being incredibly apologetic. If Person 2, equally accidentally causes Person B a more or less equal amount of harm, does that not impact on the original accident? That is, either both Person B and 2 are equally sorrowful and apologetic, or they both forgive each other in the light of having caused each other suffering and both now share an experience. In that sense, to return to heroism, Person A and 1, once they thank each other, share something that previously was not shared, but in that moment cease to be heroes to each other as they are on a more equal footing. In a sense Person A might want to extend all of the gratitude that Person 1 did, and there is a sense of intimacy as both risked a great deal for the other in each given moment. This also means that a sense of heroism remains to the outside observer, who might justifiably regard both of them as heroes.

The sense of heroism is lost completely in the second option where there is a negotiation of terms, but we need to alter our example to something even more implausible to make this example as specific as possible. The easiest alteration would be if Person A would shout: "I will save you, but only if you promise to save me too if such a circumstance should arise." This would not be concrete enough though as that would surely be a slim chance, but it already shows how that would completely defeat the heroism or virtuousness of the action. But let us deal with another incredibly unlikely incident that will take place between two further fictional characters: Person C and Person 3. Person 3, at the beginning of this story, is slowly sinking in a swamp. Having stopped to struggle he or she is now no longer drowning but cannot escape

either. Person C is wandering through this swamp too, since it is a popular location for various examples of moral character to meet by coincidence. Person C does suffer from a grave medical illness though, which is curable, yet the treatment requires substantial amounts of money. Without the treatment Person C would have months, maybe a year to live at best. Person C hears the whimpering, the tired screams of Person 3 trying to get the attention of a morally exemplary person. Saving Person 3 is incredibly risky, but Person C is happy to do it, however, the risk, even for a dying person is too great. Seeing no duty to rescue Person 3 yet still wanting to if the action would be less risky Person C shouts to Person 3: ‘I will help you, but you must help me too. I am fatally ill, so I am willing to risk what I have left of my life to save yours if you will risk your livelihood and money to save my life.’ Person 3 hesitantly agrees. As happens with all rescue operations in these examples, all is well and both survive. Yet, after exchanging the money the two people thank each other in a business-like manner and depart.

Even though Person 3 does not seem immoral, the action does not appear objectionable either, as we cannot regard it to be Person 3’s duty or obligation to risk his or her life unconditionally. Alternatively, regarding these examples, it is impossible to imagine a superhero that is concerned with fairness and constantly demands others to exchange money, favours, or other things for the superhero’s services: if the hero’s commitment to the excessive action would place people in a situation of debt we would instead have a thug who demands ‘protection money’.

But, considering our actors with unfortunately generic names that save each other, the people who act here do not need a sense of strict, unconditional submission to the greater good or the community as a communion. The last two chapters have done away with prescription and obligation in that sense. They, if anything, might be considered individuals in the sense that there is no need even to recognize the Other as being in relation to the self upon encountering him or her; they can be individuals as opposed to singulars. Especially, in consequence, the morally exemplary action does tend to exclude the moral exemplar from sharing, as the hero is not shared. This might resemble the spectacle again. The heroic action attracts attention, and we can conceive of a crowd that gathers around the hero who just risked his or her life to save another human being. The crowd claps and shares an orientation, they are distracted from their own singularity and feel like they have been united by the hero, that ‘other’ in their

midst. The action of the hero either drives a *singular* into a sense of solitude as he or she is suddenly differentiated beyond sharing a reciprocal relationship with the singular community, or creates a sense of self-importance to the *individual* that amplifies the mistaken sense of immanence. And we are trapped by the inadequacy of two dichotomies: the right and the good on the one hand; the individual and the community on the other. The heroic sacrifice and bravery does not fit well, it avoids being an obvious example of the deontologist or utilitarian morality.

We can try to scale down the heroic to a mundanity and ordinariness in a way where it is simply regarded as a pleasantry in order to avoid the glaring excess, to see if that might change the situation. This might also be a moral example that is not too unlikely: a person on the street asks me for some change for the bus. I have the change, but I was planning to use it to ride the bus instead of walking home. But I give the person my change. There is again a difficulty in formulating a categorical imperative here. It seems that the degree of excess is not as relevant as the proportion of excess between the self and the Other. A life for a life or a bus ride for a bus ride seems equally problematic as a duty or demand: I just did something supererogatory. The person did not seem to be struggling to walk or as if the trip on the bus of him or her was extensively longer than mine: I simply transferred an inconvenience. I just did something good. Similarly, if I had an abundance of change, the matter is easier. Similarly, if the Person A would be a trained life-guard with a motorboat at the beach, the obligation would be much easier to formulate and the action would suddenly seem less exceptional, but something that literally ‘any lifeguard would have done’. Similarly, if I began negotiating with the person that asked me for change then I would surely cease to be doing something nice: if I, for example, would ask him or her for the bottle of water that they were carrying to make my walk more pleasant. Given the everyday nature of this, the person that asks for the change might even walk off a little confused and ask someone else instead. Most humorous might be the demand for gratitude: “Ok, I will give you the change if you say please and thank you first!” which holds the lovely irony of making the thank you undeserved as the change is not given unconditionally, but is given under a condition of gratitude. In either case we are beginning to clarify two issues: on the one hand, doing good is argued to be doing more than is expected, whereas being fair is doing what can reasonably be expected; on the

other, doing more than is expected has been said to differentiate the hero from the rest of the community in a manner that creates a sense of solitude.

We will continue with the differentiation of the good and what is expected in the next section. First though, I want to look at the solitude of the hero. Solitude, here, mainly describes a place of the singular in which it is differentiated and is not allowed to share-being in the way that was outlined in the section on the singular community. One of the examples in which the hero is separated is the alter-ego persona of most superheroes. The superhero is 'loved' in the odd intimacy that was discredited in the chapter on ritual sacrifices: a love that with the superhero becomes even more the unanswered adoration of the saved. Love in this case is equated to gratitude. The crowds talk of superheroes and desire their deeds, yet the relation of the hero to the community is complicated as it is an odd distinction between being placed and spaced. The superhero's alter ego is seemingly intended as an anchor for the hero, a means of relating to others, yet, his or her hidden identity is to be a poor friend, one that runs off in the middle of meals and cinema visits in the desperate pursuit of the heroic act. The lack of passionate relation to a community almost makes the hero seem dutiful: a hero obliged to heroism and obliged to perform incredibly risky feats. But the duty is no identity or is not singular. In a sense the very identity of the superhero, for the superhero, only exists in reference and as relation to the alter-ego that relates to other singulars and little else exists for the superhero (apart from maybe fellow heroes, like Batman's Robin). Maybe the superhero and his or her alter-ego are similar to the intimate couple where the one is a refuge for the other. The ideal of the lovers will be dealt with later though. Be it Wonderwoman, Superman, Batman, Spiderman, or almost any of the others, the alter-ego must relate to those that permit a relation of reciprocity, devoid of excessive gratitude and extensive thankfulness. This relation of the hero to others creates a sense of solitude and sacrifice, an emotion that some of the stories relate to when the superhero falls in love, yet the lover only admires the superhero. It is an admiration that never suffices for the alter-ego character who wants more than simple adoration and desires shared intimacy.

But it might help to draw out this sense of tragedy of the hero stemming from the impossibility to relate to community within which the hero acted. If we agree with Blum and his claim that the heroic motive is important to the hero (1994:84) then the

tragedy that I am talking about is the inverse relation between the genuineness of the hero's moral motive and the communal connectedness. The moral motive is one where the hero's action is not motivated by a desire for gratitude or a negotiation, and as we have seen, the most heroic deed is the one that is not negotiated or reciprocated. The moral motivation is the desire to rescue a fellow human being; it is a recognition of similarity and resemblance, which makes the actor risk more than can be reasonably expected. The hero acts out of a desire to help, which is motivated by a moral response to the dire situation of the person that is in need of help. But, the awareness of risk needs to be there, that is, the hero cannot act impulsively if he or she is to be described as a moral hero. I will argue that this response requires relatedness and a sense of reciprocity. The more genuine the heroic motive of the heroic action, the more it relies on the hero relating to the suffering as a singular or self regarding the Other as suffering. This genuine moral motive is more admirable, more exceptional and more exemplary, so it results in an alienating gratitude that not only relates to the action, but also to its motivation. If the hero is motivated by some form of self interest, by a desire to be admired or even negotiated as in some examples, the hero will be less of an 'other' who deserves praise, but will more easily relate to others as they regard him or her as a fellow *being*, not a hero or saint. The hero that makes the front page of a newspaper for his or her genuinely morally exemplary action will yield the most destructive blow to the self as placed. If community comes to recognise the action as heroic the hero might be served free drinks at the local bar, where he or she will yet again be asked about what happened. There are only two escapes from this tragedy: a community that is not thankful for the supererogatory or a singular that does not perform extraordinarily sacrificial moral actions. But this section has brought the just sacrifice closer as it must not only be an action that is performed by a member of the community, that is someone who is placed, but it must be an action that does not displace the actor. The just sacrifice cannot rupture the placing of the fair sufferer, but it must affirm the place and the placing of the sufferer, that is, it must be a shared suffering.

The hero has become a negative example of the connection between justice and the relation to a community and the connection between justice and shared-being. The hero as a case in which the supererogatory was illustrated and introduced, and one of the consequences was problematised, helps us understand the hero's solitude. But, to

better understand the conflict between doing something good and something fair we need to look at the saint as an example of an actor who understands him- or herself as more intimately related to the community and suffers passionately, rather than dispassionately. The saint is also more involved through a long commitment to a moral project, which differentiates the saint from the more everyday examples of heroes.

Saints

The saint is an idealist. At least this was one of the main distinctions drawn between the saint and the hero. The saint has a desire to do good that does not rely on responding to a situation that requires a moral choice. This makes the saint an initiator. Blum does stress the difference between the hero and the saint to be blurry and not overly precise when distinguishing the idealist and responder, yet he seems to make a very clean distinction that has several specific aspects: the idealist has a set of consciously chosen moral principles whereas the hero does not; the idealist is hopeful that these principles are achievable, universalisable and of a morally exemplary standard whereas the hero simply responds to a situation in a morally exemplary manner; and in responding to an action the saint must live up to those self set principles whereas the hero simply does what is good having no sense of the response to be morally good in some intrinsic and *a priori* manner. (Blum 1994:83f)

If the hero was problematic because of the excess and the lack of reciprocity of the relation, the saint suffers from similar problems. There is however a distinction. While the hero merely risked suffering, the saint suffers and does so driven by a commitment to a moral principle or set of moral rules that demand conformity in order to be morally exemplary, which is held to be a good in itself. The lack of reciprocity between the saviour and the sufferer in the example of the hero was possibly so alienating since the hero just responded to a situation. The saint inhabits a more vulnerable and exhausting position that intuitively seems to care more closely about the community. The suffering stems from a commitment or orientation to the community in the form of a consistently benevolent selflessness.

When we talk of the saint as having moral principles we can start to maybe point out a parallel to the duty, but unlike the case with the dutiful suffering, it is the saint's

choice of principles. Other than the dispossessed self mentioned in the last chapter, it is the stronger self of the saint that is distinct and exemplary through its principles (rather than same, or ordinary). We can more clearly distinguish *following* principles and *being* principled: duty was the obligation to follow a given principle, but the empowered self as principled is a self that can eventually be argued to challenge obligations in a principled fashion. The saint as being principled and committed to moral principles to an exemplary extent can be illustrated by looking at the most extreme, clear, and maybe hypothetical example of this: an actor who regards the principle's good as a good intrinsic to that principle and is selfless to the greatest degree. I will call this saint a martyr, partly because the religious undertone in both words connects them, but also, because this connection stems from the saintly martyrs dying for their conviction. Etymologically the word martyr comes from the word witness, that is, a legal witness to a crime or injustice. The association of the martyr with dying for a cause or ideal stems from the process of torture to ensure a witness was telling the truth when being questioned. In both senses, though, the martyr suffers for the purity of a conviction, be it the truth of an account or the truth of an ideal. Both types of martyrs will be exemplified in this chapter.

The first example is a witness to a crime, tortured extensively in order to ensure that his or her account is in fact the truth. The torturers are exerting pressure on the witness to change the account to sound more 'truthful' or convenient, yet the witness does not falter and insists on the account being accurate. We have to assume that this witness does not actually know or realize who or what is involved in the crime and who would eventually benefit from any alterations to his or her account; all that is known to him or her is that witnesses to a certain event were asked to make themselves known, and thinking little about the occurrence in the first place, the witness approached whoever might be in charge. The motivation for telling the truth to the best of their ability was the conviction that truth as virtue holds a good in itself, and it is a good that is worth pursuing. And whilst the person was tortured, despite the great suffering that was endured, this good, which the witness was bestowing on him- or herself, was the only consolation. The witness perishes under the torture, but perishes having been true to truthfulness. There is very little to analyze here that is relevant, yet it illustrates the action that would be considered praiseworthy without a sense of moderation. If we

accept moderation to be somehow linked to justice, then this appears excessive. Enduring this incredible suffering without any means of knowing the circumstances that his or her honesty supports makes the martyr principled; his or her very principle of truthfulness is tested by the torture. But, saying this, we could remind ourselves of the categorical imperative and duties such as ‘you should not be dishonest’, which have similar consequences, but our actor’s commitment is not to a prescribed rule (‘you must tell the truth’) but a chosen principle (‘I desire to be truthful’).

What is more important to this argument than someone who dies for *truth* is considering someone who suffers for justice for its own sake and inherent desirability. This is problematic already, since justice is concerned with the Other, yet the good of the Other might be the concern of justice, so by orienting towards justice as opposed to the Other, the saint might still be considerate of another’s proportion whilst regarding justice alone. If we presume this saint to be committed to fairness, we could even argue that this justice is also informed by equity in McHugh’s sense. So we are looking at an actor who does not insist on what might be his or her rightful or legal share, but someone whose commitment to fairness could make them exemplary. We have two options if we desire to focus on sharing suffering: either we are looking at a black face that is highly successful, but has shared the suffering of fellow black faces previously; or we are looking at a white face that has been advantaged over black faces, yet recognizes the unfair treatment and tries to share suffering. In the first example the saintly actor shares the suffering that motivates the equity, in the second it is equity that motivates the shared suffering.

The first case, the black face that receives a disproportionate share through merit (as a common norm and shared value, shared by all members of the community) still decides that this proportion is too high and takes a considerable part of his or her income and redistributes it. This is not the result of a public policy or a law, but it is his or her initiative to correct the law where it seems to be unjust. This orientation towards justice and equity already poses two problems: merit and the supererogatory. The action of the advantaged black face is neither expectable, considering the above described sense of justice, since the black face is disadvantaged too, that is, the black face is not responsible for the unfair treatment of his or her fellow black faces. The difference in income is not based on a long and arduous (yet still unachieved) attempt at keeping a

promise. In this sense, the black face has either been treated fairly or has had to work against the unfair treatment and overcome the disadvantage, neither of which would require him or her to be responsible. The action of sharing suffering by not insisting on all that is due is generous and excessive when we consider justice. It is unfair to the giver and, in the manner in which it is given, it is desirable, yet undeserved by the receiver.

The second case: A white face recognizes that, in light of sharing a place with black people as a singular amongst singulars, he or she is unfairly advantaged by the laws and norms. In light of this realization the white face decides to take action. This might either be in the form of resigning his or her position, giving away a share of his or her income, or simply insisting to be paid less to earn a more proportionate amount. At first sight this now has all the ingredients that should make it a just suffering. The white face orients towards justice and equity, shares suffering, goes beyond minimal justice, recognizes black faces as singulars that are members, theorizes a principle. But, and this is the great divergence that shows the potentially important role of the saint even though they are generally unjust, the saintly equity of the individual actor is never justice informed by equity when it occurs in one singular, but it becomes an action of equity that highlights formal justice's insufficiency. The saintly action might be an informant of justice in these instances, even though the actor that orients towards ending injustice *alone* might carry less of an impact than an actor who orients towards the insufficiency of justice and tries to create a discourse within the shared community. The saint still becomes an individual, when the action is individual. In spite of recognizing responsibility, the individual action is not fair, as suddenly the individual becomes merely a part of the injustice, rather than moving towards ending injustice. But, instead of the just sacrifice, the saintly individual that suffers supererogatorily is able to suffer for justice; even if this is not just suffering. So, considering this consequence of excess or the supererogatory as an individual's failure to *be* just in spite of highlighting injustice by drawing attention to his or her own exemplary action, then how can a singular suffer without this suffering leading to a division between the sufferer and the Other that creates a false sense of individuality, selflessness and intimacy? How can we imagine a suffering in which the sufferer can genuinely say 'it was nothing worth mentioning, everyone who cares about being fair would have done the same'?

In spite of this remaining issue, the above already shows how aspects of benevolence are much more desirable than utility or duty: good allows excess, that is, a challenge to those values that have failed to realize their intrinsic injustice. We can empower the self to become a challenger of long established moral principles. In this sense, maybe Sartre's Lizzie (mentioned in Chapter 5) could have been a saint that challenges myth by becoming a martyr: telling of the truth that a white face tried to rape her, risking her own life. Before looking at the attempt to moderate the excess of benevolence by regarding virtue ethics, I want to briefly digress and draw out a realm in which excess can be regarded as genuinely desirable.

Lovers

It is this section that drives this sense of ethics to a different extreme and into a different direction by trying to find a place where the excesses mentioned above are no longer regarded as such, but become a relation similar to what those writers obsessed with myth and the intimate community seem to desire. A relation where the self-sacrifice is no longer a differentiating factor, but a means of sharing. This section will also show how this relationship is strictly possible between two (or maybe very few) singulars. In other words, I will claim that the enigmatic intimacy of which Bataille and Girard seem to talk can exist, but merely in the form of what Bataille and Blanchot seem to understand as lovers and which more broadly might include close friends or other forms of deeply intimate relationships.

In the chapter on community I have already mentioned the special relationship that is attributed to lovers by Bataille, Nancy and Blanchot: if the singular 'I' is always a relation to others, and if the singular cannot be absolute/immanent/solitary (Nancy 1991; Bataille 1998), then the way in which the singular can get closest to being immanent, in spite of being bound to exposure as a prerequisite of the self, is by exposing the self completely and infinitely to one other. The 'infinite attention to the Other' (Blanchot 1988:43) is the complete illusion or closest reality of the self that seeks a foundation, that is, imminence. The self that exposes completely and exclusively to the one other, if reciprocated, leads to the singular where 'I am you, we are us, and we are indivisible.' It is already clear at this point how this engagement with intimacy

and lovers is an engagement with an extreme; it is an indulgence with the passionate and possibly unreal intimacy.

The community chapter also mentioned ‘time’ as that which places the singulars’ relationship, giving it a sense of permanence and relatedness. This creates two distinct cases of this intimate and infinite orientation towards the Other, one that is merely a spacing and another that is a placing. The brief, passing instance of intimacy of strangers who become lovers for but a moment of passionate love provides that sense of immanence by the realization the self in that instance is bound to the Other, however fleetingly. This is not a distinction of quality of intimacy, but purely of duration, and its association with passion is the association with excess in the sense that it is an exertion purely for the sovereignty of the moment over the relatedness of the place. It is an escape or relief, maybe even a reminder of the possibility of a self that is contained and is, in that moment, given a simplicity, as the world is forgotten and the singular purely exposes to the specific, direct, immanent Other.

Lovers over time are slightly different as they create a place, a refuge that has a certain degree of permanence. I speak of a refuge as a bounded space, which would imply that it is the exact opposite of the immanent, absolute place that it is argued to be. Yet, the refuge for the self with the Other is seemingly (if we consider it an illusion) absolute in the sense of containing its own boundaries within itself. It is not a matter of the self that seeks refuge within the relation to one other, but it is the relation to the Other that eliminates the boundaries that are posed by other relationships, by being singular. In a sense, the intimate other is the illusion or near complete approximation to transgressing the boundary of the bounded self.

This intimacy is impossible in the community as it is the singular’s desire for sovereignty that is a desire to escape that very community. There is no way to escape the relation to the many, apart from through various illusions that have been mentioned previously: the ritual crowd, the spectators that infinitely orient to the victim with a failure to realize the impossibility of an intimate reciprocity as the victim is drowned in relentless gazes. The self-sacrificing saint might find the intimacy in the illusion of the compressed crowd of singulars or with a plurality of faces that all become the Other. If both coincide, the crowd and saint might find an odd ecstasy, yet it is one that is

reciprocal only by its illusory nature, rather than reciprocal by a genuine sharing. It is a shared misunderstanding.

The relation of the lovers, however, might offer us a space or place for suffering that is shared, yet does not seem excessive, heroic or saintly, but merely intimate (or affirming an intimacy). The intimate suffering is only ever an extension of the two singulars sharing their infinite attention to each other. Possible examples of a lover's sacrifice are very simple, since it is much more natural: imagine two lovers and the choice stands between either following to a place where only one can pursue a career: because of the geographic location of these opportunities only one and not both can achieve their desire. They could part ways, but then our example would no longer be about suffering between intimate lovers, but it would be about intimacy suffering. So a choice is made after lengthy discussion, yet, the infinite attention to the Other means that neither choice really matters, since even though one of them will suffer a vastly disproportionate amount according to justice (be it formal or equitable or affirming), they both suffer and the choice does not infer any understanding of the sacrifice of the one being excessive. If the suffering would be considered excessive and considered something that requires gratitude, guilt or a sense of indebtedness, then the intimate relationship is no longer a refuge. On the other hand, the sufferer must be able to express their suffering and they must be able to share their suffering without this inducing a sense of condemnation and request for gratitude. Intimacy is the realization that the 'I's' sovereignty only ever exists as the sharing of the 'I' itself, that is, the losing of the 'I' to the 'Us'. This is very much unlike the saintly or heroic, since the motivation to suffer or demand for suffering is not found in a desire to do good, but in an orientation towards the Other that is intimate.

The only moment of possible excess is the more fictional and unlikely choice of lives: the self-sacrifice for the lover. But this is very easily resolved, as the self, regardless of choice, will have to watch its sovereignty perish. The immanent reciprocal orientation towards each other has to end either way. The self that survives and desires to live (and one will survive, whether the one saved or the one that does not sacrifice the self) realizes that this intimacy was only a close approximation (or illusion), a refuge, rather than a world of its own. The surviving lover realizes that he or she is still alive, even though the intimate place with the Other collapsed.

The lover for whom the illusion holds, the lover who believes the 'us' to be genuinely immanent will perish alongside the lover. He or she is empowered to the extent that all that remains of the singular is the remainder and reminder of a lost existence, a remainder that, without relation, serves no purpose, since the sovereign self, in this extreme, is like Bataille's sovereign self at the instant of death, when the singular escapes the rupture between the 'I' and the 'Other' (1998:190f). The self whose lover has perished either realizes the sovereignty, a moment at which sovereignty ceases to exist as the self is thrown back into the confines of discourse, reason and norms, or is sovereign, which is a state of freedom from everything (project, the need to choose, freedom itself) and all that exists is the instant. It is this sovereignty that, having to be experienced rather than realized, creates the unbearable void and anguish of the lover who ceases to desire to exist (or expose) in the absence of his or her intimate other. But as I mentioned, the choice between the lives of lovers is mostly a work of tragedy.

There is an ethics linked to this approach to intimacy. Often it is called care ethics, yet I will focus on the work of a particular author for a moment: Levinas and his ethics of alterity. However, Levinas' ethics are slightly different in that they do not rely on a place, or boundary, or conditions of any sort. They simply rely on a fundamental responsibility for the Other (Levinas 1981:10-5). A responsibility that 'goes beyond being', where the self takes itself hostage through this essential responsibility towards the Other (Levinas 1981:15). The relationship with the Other is not founded on a sense of intimacy in the sense of sharing a place or space, but it is simply existing, that is, encountering the Other, that makes me responsible for the Other. In this relationship 'the Other always puts it [the self] into question to the point of being able to respond to it only through a responsibility that cannot limit itself and that exceeds itself without exhausting itself.' (Blanchot 1988:43) This is where the similarity to the above lies: a self that gives excessively, yet without exhaustion as the exertion affirms the self. Yet, it seems too demanding to presume this relationship to be essential, to precede everything, including being. Not every encounter with any singular Other can be intimate and excessive. The relationship is argued to be indifferent to history: it does not keep a balance, but the goodness of this relationship is essentially, eternally and exhaustively forgiving. Levinas is aware that this relation is between two singulars though, and the problem of the third, who suddenly becomes the Other's other,

complicates matters as it raises the issue of proximity and consciousness of responsibility. Levinas clearly differentiates between the neighbour and his or her other, yet I must approach both even though they are two distinct singulars, since there ‘must be justice among incomparable ones.’ (Levinas 1981:16) It is this that leaves us with justice as a complication.

Maybe Levinas’ ethics, virtue ethics, and, in fact, all the moralities that require or propose a sense of intimacy, all falter at the hurdle of plurality as the selfless self that seeks to be affirmed in its orientation to the Other, relies on reciprocity and on recognizing the Other as unique. As Loumansky points out (in relation to Levinas, but it seems more generally applicable): ‘alterity must defy systematic application [...] to do justice to the Other is to recognise her uniqueness’ (2006) And it is this respect, and even passion, for the unique face, the intimate relation, that justice cannot accommodate. But, to depart from these extremes, maybe virtue ethics and its focus on the moderation of an empowered self’s principles can help to more closely relate the good with justice.

MODERATION

Virtues

If the saint is described by Blum as the idealist who lives according to a set of principles which are regarded as holding some good in themselves, then he almost describes a virtuous actor, since the virtues and the actor’s relation to these could be regarded as a set of rules, that, unlike the categorical imperative, are exemplary. The categorical imperative does not accommodate a sense of hopefulness about being able to live up to its demands, since, being a universal and absolute duty, it only accommodates a sense of having done right by the rule, rather than having done something with a commitment that could accommodate pleasure. But I have to explain who a virtuous actor is in order to make the claim that virtues allow for an empowered actor who can enjoy a commitment to moral principles.

Virtue ethics is, in a sense, the third of the three major branches of ethics, but it is also the least clear, since it inspires and finds inspiration in slightly different forms of

ethics, such as care ethics or Levinas' ethics of alterity. But there is a certain, let us describe it as orthodox, strand of virtue ethics which builds, like deontology and utilitarianism, on the writing of a founding father. Instead of Bentham or Kant for utilitarianism and deontology respectively, virtue ethics looks towards Aristotle. There are several prominent neo-Aristotelians, such as Philippa Foot (mentioned in Crisp 1998:10), Alasdair MacIntyre (1985) and Rosalind Hursthouse (2001), who build directly on Aristotle's writing, in particular his *Nicomachean Ethics* (2006). I will try to focus on these four authors, but others might occasionally be mentioned to clear up some issues that will remain.

One of the first claims made by modern virtue ethicists is that virtue ethics, unlike deontology and utilitarianism, focuses on the actor rather than the action. It is even the very first item on the list of what virtue ethics is usually categorized to be when Hursthouse writes that:

Virtue ethics has been characterized, inter alia, (1) as an ethics which is 'agent-centred' rather than 'act-centred'; (2) as addressing itself to the question 'What sort of person should I be?' rather than to the question 'What sorts of action should I do?'; (3) as taking certain areteic concepts (good [will], virtue) as basic rather than deontic concepts (right, duty, obligation); and as (4) rejecting the idea that ethics is codifiable in rules or principles that can provide specific action guidance. Although there is some truth in all these, they tend to foster a common misconception, namely, that virtue ethics does not, and cannot, provide action guidance, the way utilitarianism and deontology do. (2001:17)

And, in fact, looking at the other factors in her description, virtue ethics seems very appealing as an alternative, not just in general, but also with regards to justice and a sense of belonging or community. Since the focus is on an actor rather than the action, the focus can extend more sensibly to that actor's relationship to fellow members of the singular community. Stressing concepts of good over ones such as duty and obligation is in tune with the previous chapter's critique of Kant and Rawls. And, justice is a virtue, and it is one of the most highly regarded virtues for Aristotle, devoting to it an entire book (or chapter) in his *Nicomachean Ethics* (2006).

It is the rather sensitive subject of action guidance that might be one of the only problems since, if we are to consider the just suffering in a community, it seems difficult to avoid any form of action guidance, or normative reference to actions. However, in terms of action guidance, which has to be action based, Hursthouse makes

a very good defence. She argues that ethics works on a double premise: action A is right if it adheres to condition B; B, in turn, is adhered to by following guideline C. The first is the principle or underlying rule, the second is the action guidance. With the example of the categorical imperative this becomes quite clear: an action is right if it conforms with the categorical imperative, and an action conforms with the categorical imperative if I can will its maxim to become a universal rule. If this is the criteria for action guidance, then it is very easy to create concrete action guidance for virtue ethics: action A is virtuous if it is performed by a virtuous actor who possesses the trait of the virtues, and a virtue is a trait that either fulfils Aristotelian requirements, is found on a list of sorts, or any other relatively unfounded criteria. (Hursthouse 2001:29)

To this extent, virtue ethics seems to be, even if in places uneasily, aware and accommodating of the flexibility and unfoundedness of virtues: they are strictly not based on some universal rule devoid of any context. I mention an uneasiness because, despite the realisation that virtues allow for dilemmas (that is, situations where there are two choices which both are morally problematic and leave the truly virtuous agent distraught) and that virtues in action rely heavily on context, virtue ethicists seem determined to discredit many ‘common sense views’ about virtues to avoid them becoming too plural and ill-defined. To this end, virtue ethicists seem to rally around Aristotle’s very specific view on what virtues ought and ought not to be, robbing it of much of its near arbitrary flexibility. One such attempt at avoiding the arbitrary is made by Terence Irwin (in Crisp 1998) who ends up adding more and more restrictions drawn out of the *Nicomachean ethics*; restrictions that we will deal with in a short while. For now it might be important to note that virtue ethics, in many cases, remains a strong normative argument that often resembles Kant’s hypothetical imperative, that is, an ought that is defined by a prior conception of what is good or desirable in a certain action. As the name says though, I am suggesting that virtue ethics remains an imperative and given a certain situation a virtuous actor ought to do one action over another, apart from the very few and rare cases in which the situation poses a dilemma. The important achievement of virtue ethics, which we must consider and build on, is a much stronger evaluative factor. In reference to duty it means that the virtuous agent cannot rely simply on one single principle that will always result in the good; and in reference to the saint the agent cannot give themselves up entirely for a chosen moral

principle, nor can they excessively respond to moral demands, but instead the virtuous actor is a contextual evaluator, rather than simply an idealist or responder.

Aristotle's Virtues

Let me focus on Aristotle for a moment and his account of the virtues. Much like most virtue ethicists I will also focus on the *Nicomachean Ethics*. Also, inadvertently, by recounting Aristotle's virtues, I will be recounting views concerning virtues of *men* of a certain social standing, disregarding and explicitly excluding women, slaves, and others (Moller Okin, in Crisp 1998). Aristotle begins with linking virtues to good and argues them to be good in themselves. This is almost a similar premise to Kant, especially considering that good will or acting on virtues for their own good, is an aspect of being virtuous. Then Aristotle connects happiness with virtue, saying that 'he is happy who is active in accordance with complete virtue and is sufficiently equipped with external goods, not for some chance period but throughout a complete life' (Aristotle 2006:Bk1.10). External goods are wealth, beauty and social standing, so, to paraphrase, a poor and unsightly slave cannot be happy, even with virtues. The connection of virtue with happiness is quite important though, since it allows a concept of taking pleasure in being virtuous, and also it could help relate suffering to happiness.

Virtues themselves are states of character. That means that they are unlike passions or faculties. They are unlike passions since we regard virtues and vices as good not based on how they please our passion but on their own grounds. They are unlike faculties since we are not moved by virtues but disposed to virtues. This leads us back to the virtuous actor as one that holds certain similarities with Blum's saint and idealist. The saint is not moved to do virtue but is motivated by a disposition to these virtues. But, being traits of character, the virtues are not however natural, but either taught or habituated, which makes them either intellectual or moral virtues (Aristotle 2006:Bk2.1). Aristotle almost seems to accept the contextual nature of virtues more than some neo-Aristotelians when he mentions the difficulty in precisely describing virtuous actions since they vary greatly depending on what is appropriate in any given

circumstance. What needs to be abstractly and generally explicated are the foundations for virtuous action (2006:Bk2.2).

The undoubtedly most important aspect of the virtues, and one of the main reasons for engaging with virtues here, is that virtues are means (in the sense of average or intermediacy) of actions, that is, they are excellent ways of doing actions that are not excessive. This demands more explanation, especially since the previous section spoke of excess to such an extensive degree. For Aristotle it is not simply a matter of being brave in battle that makes an actor possess the virtue of courage (and the example of the warrior should stress the gender issue with the Aristotelian virtues), but the actor must be brave with excellence. For Aristotle each virtue relies on the actor possessing wisdom (in Crisp 1998), which is essential for performing any virtue with excellence. So, the warrior that charges unarmed against a horde of vastly more powerful enemies is not brave, but reckless. But, the warrior that flees when facing an equal enemy is starting to be cowardly. In this way the virtue of bravery is a mean. The very same applies to almost all virtues, so there is such a thing as being too generous, too truthful, too caring, too proud, too well tempered, etc. It is only the mean of these actions that is excellent and the excess of it being too much is undesirable, and too little of these virtues becomes a vice. This strictly argues against virtues as excessive and asks the question of how exemplary they can be if they are intermediates between excess and defect. Also, this stresses the evaluative element of virtue ethics as the actor, according to Aristotle, must voluntarily choose the relevant mean, that is, the excellent virtue; this choice requires practical wisdom and some form of 'rational principle' (Aristotle 2006:Bk2.6). Exceptions though include actions and passions that regardless of how they are performed are always vices such as theft, murder, adultery, envy and shamelessness. In a sense it seems that the mean of a vice is still a vice since vices are failures to find the mean that is the virtue already (Aristotle 2006:Bk2.6). We can also begin to see how the wise actor would not just possess one virtue, but would be able to use wisdom to discover the excellent mean in most actions.

Virtue quite clearly tries to be concerned with an evaluative good actor who uses his or her wisdom, but also, and most importantly, uses this wisdom to avoid vice or excess. But what are the grounds for avoiding excess and how does this concern with moderation relate to suffering and pleasure? The problem that is starting to develop

through the empowered actor that finds the mean is that we are losing the communal element of justice and Aristotle offers us a solitary self that can individually, through wisdom, determine what an appropriate mean for generosity or justice would be. If this is the case, and the actor has to find a mean, then we do need to better understand various criteria that make the moderation a reasonable concern for the virtuous actor: most of these revolve around the distinction between pleasure and suffering. The reason why virtue ethics has to account for the need for moderation has been shown with the saint or hero, who are both lacking in moderation, but could in some instances, intuitively, be understood as virtuous: heroes are often regarded brave, saints are generous and modest. The next section will try to pursue two routes in offering an explanation of the centrality of moderation by looking at the self as torn between pleasure and pain: one option to consolidate the two is the argument that excess is moderated internally by showing the suffering to be pleasurable, the other option is an external moderation limiting what is acceptable suffering. Both of these attempts will be argued to fail since neither is concerned with the actor's relation to the community, but both are concerned with the individual actor and him or her as antagonistic to the community as a whole.

Pleasure and Pain

When trying to understand Aristotle's claim that virtues benefit the possessor we must look at his concept of eudaimonia, which, together with the intermediacy, is a very problematic criterion. Eudaimonia is a requirement for an action to be virtuous, yet at first sight it also suggests to be conflicting with another, since it requires that a virtuous action must actively contribute to the flourishing of the virtuous agent. But, instead of summarizing Christine Swanton's discussion on the matter I will simply use her quote from Aristotle: 'In all praiseworthy matters then, the good person appears as assigning himself more of what is fine. This is the way, then, that one should be a lover of self.' (Aristotle, in Swanton 2003:80) Even though this explanation is problematic as it is little more than a truism (virtues are good in themselves since by acting virtuously I come to possess the virtue as a trait of my character, from which I profit, since virtues are good) it will suffice as an explanation of the internal moderation of suffering. Now,

we could argue that the saint's suffering is in fact beneficial, since the saint that is exceedingly generous and giving is in fact flourishing, rather than diminishing or wasting away.

Considering the external moderation the virtue as mean and the virtue as demanding create one central issue: can a saint be selfless, that is, if selflessness is a virtue, how is it performed selflessly without becoming excessive. Also, if the virtue here is not selflessness, but a consideration for the self *and* the Other, then how can I be morally exemplary, that is, act virtuously for the sake of virtue (and virtues intrinsic good)? So the problem that is starting to become clear in the attempt to externally force the virtuous actor to be moderate is that it is seemingly incompatible with that virtuous actor being exemplary. So, looking back at eudaimonia, limiting the selflessness by introducing a concern for the self prevents the actor from flourishing. Concern for the self and for the Other are already becoming opposites and virtue ethics is beginning to lose a sense of the self being able to affirm the community of which he or she is a part by suffering: in other words, we are losing the self as singular.

This is where we need to understand Swanton's *equilibrium* (2003:144). She introduces the concept of equilibrium in order to solve the problem of excess in virtuous action and it is an equilibrium between four factors: self-respect, self-love, universal-respect and universal-love. A mean between these four factors will ensure an excellence of action and the mean of the action being virtuous rather than excessive; it is the consideration of all these four factors with excellence that creates the equilibrium. Love and respect to Swanton are opposed, and they pull in different directions, seemingly representing the pull of objectivity towards respect and that of subjectivity towards love. Equally loving or respecting universally as opposed to the self really stresses Swanton's concern with the dichotomy between the self and the Other, and in how far virtuous action can be made 'reasonable' given the dichotomies. On the issue of sharing respect and love, or either of these qualities in the universal relying on some shared sense of being, Swanton is rather vague.

Even though Swanton seems to argue that virtue must be moderate, she does seem to imply that universal love in a virtue does express some extreme and excessive self-sacrifice, which makes it an ideal; this does not mean that it needs to be striven for (2003:153). If this seems counterintuitive then it might be clarified by the

differentiation of “heroic” virtues from ordinary virtues’ (2003:153) which is used frequently, or so she claims. This implies that the perfection of the excessive self-sacrifice, which demands selflessness and the greatest amount of universal-love and strength, is something that only certain individuals can achieve and they achieve it seemingly without striving for it. This brings us right back to the hero though, that is, the individual that is selfless, both in the sense of being overly concerned with the good of others and in the sense of being ‘other’ to the degree of existing merely as a non-reciprocal relation, much like the victim of the ritual sacrifice, who serves merely as a symbolic murder for a false sense of communal intimacy. Also, this sense of the *perfect* in these ideal virtues makes self-love and self-respect no longer a virtue but a tool to avoid excessive suffering (and in a sense, to avoid excessive flourishing). It is introduced as a reasonable grounds for avoiding suffering without having to give up on virtue altogether. Virtue still places the suffering as positioned between the self and the community; a suffering that, even when acted out as a perfect mean, is never able to incorporate the actor who suffers into the community in which he or she suffers. The main issue is, in spite of the evaluative and flexible nature of virtue ethics, that it seems to be impossible to offer a way of regarding the virtuous actor as a singular and the community as anything other than a universal ‘everyone’ without boundaries. The actor still does not share anything as a premise of virtuous action. There is no recognition of the Other as fellow.

Beyond the Dichotomy

But, before dismissing virtues in general as problematic, we have to consider *justice* as a virtue, especially considering it holds a rather unusual status for Aristotle. Also, as mentioned in an earlier chapter Aristotle considers a virtue called equity, which must be considered with the hope of relating to the understanding of justice put forward in that chapter. Justice for Aristotle, being a virtue, fulfils certain basic criteria: it is a trait of character, it is done for its own good, it is based on a conception of the mean and it has a corresponding vice. This makes justice, to Aristotle, rather akin to what has been referred to as formal justice, but the virtue of justice also includes legal justice. It is concerned with doing what is right. To return to Aristotle’s strict limitations on who

is able to be virtuous, it comes as no surprise that justice does depend on merit and social status. This means justice is about legal obedience and fairness, two things that should be the same. But what is it that makes justice so unusual a virtue? It is special because it is complete virtue, that means that acting justly will also mean acting bravely, generously, with temperance and so on, providing the situation demands it in order to be just. But the completeness has another very important factor, since justice

is complete because he who possesses it can exercise his virtue not only in himself but towards his neighbour also; for many men can exercise virtue in their own affairs, but not in their relations to their neighbour. [...] For this same reason justice, alone of the virtues, is thought to be "another's good", because it is related to our neighbour; for it does what is advantageous to another, either a ruler or a copartner. (Aristotle 2006:Bk5.2)

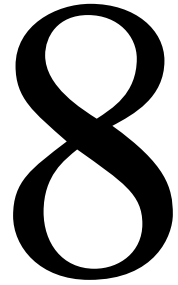
A similar distinction has been made previously, comparing morality to justice, and for Aristotle the consequence is similar, in that justice is about fairness and fairness is about proportion, which necessarily requires the Other. So maybe justice as virtue, rather than virtue in general, offers a necessary connection to the Other?

The virtue of justice, then, qualifies the above problem with virtues in general. If most virtues are not about the self and the Other, then the dichotomy with all virtues apart from justice is not between the self and other, but between the self as actor and the virtuous quality that the actor desires to bestow on him- or herself. Justice's concern with the Other, however, is still no link of relatedness in a singular sense, but it remains a purely formal connection that is a relation of proportion. Any difference of proportion is not one of relatedness and being placed, but is still an attempt of the self that is virtuous and concerned with its own virtue and flourishing to negotiate suffering between him- or herself and the community.

This dependence on the dichotomy between the self and the Other creates a virtuous actor that is an evaluative individual as opposed to an evaluative singular. The evaluative individual's justice begins with a concern for the virtues and a derived self-interest in personal flourishing. I will argue in the next and final chapter that the evaluative singular's justice rests on the evaluation of the self and not the evaluation of the community or justice as external to that self. So we are starting to shift from a concern for the Other (which virtue ethics links to a self-concern) to a concern for Us. The danger of the focus on the Us has already been shown in the objection to the

communion. The concern for the Us that I try to advocate here is a concern for the Us as a part of my *being*, a part of me being placed within a community and this placement being central to my *being*.

It will be the singular reflective actor and the singular community that will be central to the understanding of just suffering presented in the final chapter. The biggest difference of this to all three chapters that dealt with various sacrifices is the attempt to move away from coping with a dichotomy and instead disrupting that very dichotomy as generative of injustice or forms of justice that are compromises. In the case of virtue ethics we are left with an actor that needs to balance the I and Other as distinct and separate in which the self can only suffer when it is saintly and exemplary, or it can avoid suffering and avoid a concept of justice that can be demanding. In other words, I can appear ordinary and conventional, which allows me to be same and undifferentiated or, the only alternative is to be exemplary, saintly and differentiated into a relation of gratitude, admiration and excellence. If there is a desirable aspect to virtue ethics in the search for a just and communal suffering it is an ethics that can be challenging and that allows for a strong sense of self, even though in the same moment virtue ethics introduces constraints for the empowered self. Kant and Rawls avoided the same dichotomy of the self-other as antagonistic by dispossessing the self, allowing for a demanding justice without sacrifice. The ritual sacrifice avoided the dichotomy by silencing the exemplary and distracting the community. In order to argue for a demanding justice we will need to revisit the understanding of the self and community offered in chapter 3 and engage with the now clearer and most central issue: a genuine sense of sharing that goes beyond silencing, dispossessing and managing otherness. Put differently virtue has brought the question of the *shared* just suffering to a precise problem: *How can an actor suffer justly **with** others, even though this suffering must **give to some?***



SELF-REFLECTIVE SACRIFICE

INTRODUCTION

Each of the previous three chapters aimed to engage with particular issues raised by various approaches to suffering and justice. Most of these issues were approached in reference to the chapters on justice and community. The sense of being-singular was a particular issue: how to be both an 'I' and a part of an Us. This was something that was argued to be at the very heart of justice and fairness since the 'I' has to realise itself to be singular in order to be just. As I have already mentioned in the beginning of the chapter on justice, it 'is a communal virtue' (McHugh 2005:149) and 'is the sole virtue that requires sharing' (McHugh 2005:140).

As means of an introduction to this chapter I will briefly recount some of the issues that have been raised so far. In the chapter on ritual sacrifice two of the major points were the problem of prescription and the lack of particularity. In the examples of spectacular deaths that have been taken to create a sense of communion it was shown that the claim to 'justice' was one of utility: the sacred suffering calms the thirst for violence and prevents far greater suffering. This utility was illustrated by uncovering the foundations of the mythical community and arguing that it tends to be a foundation that silences both the victim and the crowd in the sacrifice by focusing its attention on that spectacle. Silence was one of the repeatedly problematised concepts, something that will be related to the genesis of particularity and the beginning of sharing in this

chapter: being able to speak as a principle empowerment and the first possibility to break the power of unjust prescription.

The chapter that followed tried to deal with Rawls and Kant. The critique here pointed out the denial of particularity and the illusion of people being 'equal' when they in fact are not. But, we did encounter a first real concept of justice: equality. Considering the chapter on justice, and McHugh's article that was recounted there, Rawls' concept of justice as fairness fails in its inability to recognise equality as something that needs to be achieved, rather than something that is a foundation. To this end Rawls and Kant left us with a justice in which the 'I', so overly concerned with its own rights and security, is destroyed by discounting all that makes the self genuinely singular. There is no longer room for particularity here, even if, in reality, there might be particular faces. Universal duties cannot accommodate distinctions. Losing context in this manner was also at odds with the singular as placed. Justice became the avoidance of displeasure in the grand game of societal lottery. The issue with the idea of nobody wanting any factor to be considered in the hypothetical original position is that it can only ever relate to the 'accidental', that is, it can only ever relate to the examples of plane crashes given in the justice chapter. There is no responsibility, no history, no injustice and no scope for promises, as we have all been dealt cards that have been dealt 'fairly'. Rawls' only responsibility is that, now they have been dealt, we have to *keep* things fair, rather than *make* them fair.

Virtue ethics and the concept of good raised the tension between justice and benevolence. Even though it noted that in some cases the heroic or saintly act is desirable, what became a problem was the understanding of suffering as undeserved: the person that suffers virtuously for a cause or principle, suffers for *others* and this perceived suffering displaces the hero or saint. An action can be just only when no party suffers undeservedly for the Other, even if the Other might deserve what is given. A person deserves to live, but a saint that perishes whilst saving that person's life does not suffer deservedly. One of the points that this problem of suffering raised was the following: how can a member of a community suffer in a particular and principled way without the self suffering for others, and without the self being ejected from its current place (or elevated from its current place) for suffering for a principle? Maybe another way to formulate this would be the following: how can justice accommodate suffering?

This concluding chapter will then revisit some of the above issues in pursuit of an answer to the problem of suffering justly. To this end it will first look at the problem of particularity and uniqueness, which are two concepts already encountered in the chapter on justice. It will then aim to realise the importance of principled action in the process of recognising particularity and in affirming singularity. This will also involve recounting the concept of self-reflection in more detail than has been done previously. The relation of this to justice and suffering will be the vital transition for reaching an understanding of the importance of the concept of ‘desert’. I will aim to distinguish between being responsible and *being*-responsibly, relating this distinction to that between debt and desert, or owing something or deserving something. Finally, the very end of this chapter and this thesis will aim to understand the importance of a ‘conscious’ suffering that is self-reflective and that affirms one’s singularity in the affirmation of a promise, and far more importantly, in the utterance of a promise. To this end, realising that an old promise has been forgotten or realising the need to utter a promise are, as far as suffering is concerned, identical: both require a particular understanding of the self, an understanding of the self as singular.

PARTICULARITY AND UNIQUENESS

In the chapter on justice I drew out three different cases: anonymity, particularity and uniqueness. I want to revisit these here to set up the remaining discussion. Particularity has to be understood as a concept that is different from uniqueness and equality. Maybe some examples would be supportive and explanatory in their various roles.

Anonymity was used in outlining a sense of justice that was linked to lottery and utility. So one of the examples used was McHugh’s story of the plane crash. This represented lottery to the extent that the accidental nature of the event meant that certain individuals were injured severely, others probably died instantly, and others were left unharmed. But I will focus on some examples that try and draw out lottery and utility. Lottery is best explained by the example of a lottery: assume a raffle at a large party. It is a distinctly ahistoric example: it would not qualify any participant to win just because they went home empty handed in an unusually large number of lotteries previously. Just

because there is a one in ten chance of winning something in a lottery and I have not won anything in the last twenty games does not mean I deserve to win or am entitled to win.

Utility is a little more interesting, and might even subvert lotteries in some sense. Imagine the accident and emergency area in a hospital. There is a queue of people waiting to be attended to. Anything from a young person with a bruised knuckle and black eye to a builder with a seriously bruised foot can be seen waiting. Gazing at them it might be possible to guess at some of the circumstances that led to the injuries, but all that are considered are time of arrival and severity. Suddenly a trolley is wheeled past the queue: a person in critical condition is rushed past. The concern is saving lives! The injuries are all equally accidental or unrelated to the hospital. What becomes slightly trickier a case of utility is an application for a job: if we presume equal opportunities, that is, a generally equal chance at attaining certain qualifications desirable for a given job, the decision made is not one of simple lottery, but utility. The employer will aim to give the job to an individual that is most qualified and will provide the best job performance. With both the accidental and the achieved equality as given, the failure is a personal one, not a communal one: if (and this is a point that needs to be stressed) a community gives an equal opportunity to individuals to pursue their happiness, a failure to realise what this happiness might be, or some change of heart, does not subvert the equality, or justice, in a community. If an applicant for a job as car mechanic would mention in the interview that it was unfair that he or she has been rejected again, because the last five mechanic jobs he or she has applied for had rejected him or her too, it would be laughable. The employer might reply that, if the applicant desired a job as mechanic so much, maybe a PhD in sociology would not be the best qualification to have chosen previously. Presuming equal opportunities, utility will remain in the form of qualifications. This briefly lets me mention a further point about justice: it does not aim to prevent differences in pay, or avoid individuals being born into households of wealthier parents. It does not even aim to change trends in choosing partners from a similar occupation. In a sense, equal opportunities only delivers the uncomfortable, yet fair, reality that maybe the child of a lawyer and a doctor might not automatically achieve well due to structural and communal inequalities, but will have the same opportunities at being educated in a particular way as children from less

advantaged backgrounds. The said child will have the same chances of becoming that mechanic, or doctor, or maybe even unemployed. However, most of this thesis is not about the intricate consequences of equal opportunities, but it is about suffering and justice.

To this end we can now look at particularity as something that might require utility to be subverted. Particularity is other than lottery in the sense that it is not related to accidents, fate, chance, or whatever else the odds in a lottery might be referred to. Particularity, in the sense in which it has been used previously, is a recognisability resting on a shared history and on sharing a place. Particularity might not simply be a matter of being a recognisable group, but particularity, in the way which McHugh (2005) uses it, seems to imply a recognisability *with relevance*. In the situation of a job interview the black face is recognisable as having been discriminated against, as in general having a limited access to opportunities relevant to the chosen employment. In the case of black faces their particularity rests on them being members of the community and the place: they are faces that were promised freedom and an equal chance at pursuing happiness. We will return to the concept of the promise, but the important aspect of this example as one of particularity is that it is a group of faces that are equal, but are not treated equally *and* that their unequal treatment is a direct consequence of the failure of that shared desire to treat them equally. Another case of this particularity might be women, who were promised equality, who were promised equal opportunities in most European countries. Yet, in spite of this promise, they are still unequal, both in opportunities and pay. Particularity offers us an understanding of why Rawls was so problematic: if all matters in life are simply a lottery, opportunities, or chances then any reality of persisting discrimination is deserved in the way that losing the lottery is deserved. If, however, some individuals are given worse odds in spite of a shared desire for them to have equal odds, a challenge to the established convention might be desirable. Unshackling the slaves was a challenge to what had happened before. The realisation that this was insufficient to achieve the equality that was the shared desire led to an integration into the state education system. But if that is still not enough?

Before we start to discuss the problem of recognition by looking at Blum and McHugh's (1984) concept of principled action I will briefly look at the third case:

uniqueness. Imagine a person is going through a difficult time (maybe they have been turned down for yet another mechanics job) and a close friend is supportive and understanding. The distraught friend is taken out for a meal and both chat extensively about their respective lives, chat about being a mechanic and the odd qualifications for the position. The supportive friend does not need to *justify* his or her actions: there is no need to take out all other friends to a meal to treat them fairly and equally, nor is there a need to take out all other people who were turned down for a job. Being unique to someone is a means of being related in a manner that does not require equality, yet would not be considered unfair by a community: it is a close personal relation, in a positive or negative sense.

Of course there are cases in which a person can be concerned with the unique person, yet also, at the same time be unjust. This would be a negative example of uniqueness, where a person in the employments division of a large company uses his or her influence to advantage a friend or disadvantage an enemy. This is distinct from McHugh's example of particular black faces, since the person in the employment division considers the applications equally (maybe even without realising their particularity), but the chance to advance with an equally strong application is different. In the same way, affirmative action in the case of black faces rests on their particularity: a communal recognisability with relevance. Very few other people would recognise the advantaged relative, there is no communal relevance, nor is there a sense of shared recognition. A different additional issue concerning particularity is the regard for what is in fact given: the job. It is not the employee's job to give, but the company's job. Unique recognition is perfectly sufficient and even admirable in cases where something is given to a friend out of a sense of benevolence. But the example of gifting a job to a friend is similar to gifting a counterfeit banknote to a beggar. (Baudelaire, in Derrida 1992) It is fraudulent to distribute counterfeit money: the donor falsely entitles the receiving person with something that is not theirs to give. The person with the banknote does not hold the value that the note promises, but, unless caught, that person commits the bank to keeping a promise it never made (to pay the bearer of this note a certain amount of money). Equally, the friend in a company office gives something that he or she is not entitled to give and commits the company, not themselves, to employ

someone. In a sense, the giver removes him- or herself from those that are entitled to give the gift and in effect becomes a thief.

In the various cases, anonymity and particularity are the concepts where justice retains relevance and where we might encounter moments of just suffering. Moments in which justice is achieved through recognising particularity and achieving fairness lead to the particular becoming anonymous. This might need clarifying. If I argue that the way in which McHugh uses the concept of particularity is acceptable and it is in fact a recognisability with relevance, then, in the moment in which black faces have achieved equal opportunities and the promise has been fulfilled, their particularity is no longer relevant, and they are recognisable, but no longer particular in that sense.

In order to understand justice and the just suffering better we will have to understand the process of recognition and how to recognise the Other in a singular way as particular. One of the prerequisites to understanding others as singular is a means of understanding actors as being theoretical, or, as Blum and McHugh (1984) also call it, being principled.

PRINCIPLES

Particularity lies in between various points or spaces on a spectrum of relatedness. It is unlike the uniqueness and unlike the sameness that were mentioned in various sections throughout the thesis. Particularity in this sense is also other than intimacy and it requires no specific knowledge of another singular that is encountered. But, being particular is other than being same or equal: it is a statement of difference. Of course the issue with the idea of a spectrum here is that the line is not entirely clear and the distinction is one that is easily drawn in theory, but might not be as clear in reality. It is hard to say at which point we would consider a group so distinct that they become particular. So, looking at the spectrum, Bataille's emphasis on the desire to relate passionately to others really focuses on unique and intimate relationships. But, maybe at this point, we require to say a little more than point out the previous warnings of searching for justice in intimacy and its tendency for the excessive. The intimate excess of Bataille, or also the intimacy found in Blanchot, is not ignorant excess. Or, maybe it is not intended as excess that fails to be intimate. Love, and possibly genuine

hate, are founded on an understanding of the Other's and one's own singularity and therefore always rests on both a sense of reciprocity and also a sense of respect.

So if we regard the infinite attention to the Other as an excessive and passionate relation, then respect is possibly near the far end of the spectrum. Respect is the disinterested recognition of the Other's humanity, even when the singular self fails to see a relation, or when there is no relation (although the absence of a relation becomes impossible when the very recognition of the Other's humanity already forms a relation). This is what Margalit's respect is understood as here (1996). It is the space of formal equality or minimal justice. It is the sphere of unrelated indistinguishability. Yet, even here there is a minimal recognition: the Other is a fellow human. Respect becomes disinterest that is curbed by the realisation that the Other deserves to *be*: live and let live. Respect, together with intimacy as its opposite, gives us a framework of roughly ethical relationships and a space in which to locate particularity. Maybe this idea of a spectrum is a concept in which Bataille's rupture becomes less of a problem. But, for this idea of the self that desires intimacy and individualism to be overcome we need to understand the singular self in a manner in which the self is not torn, but at ease with its uniqueness, its particularity and its sameness; its significance and insignificance; its relatedness and relevance.

At this point I will begin to explicate and recount Blum and McHugh's (1984) alternative to the idea of rupture: principled action. I will recount their argument in some more detail than has previously been done. The argument so far was mainly used to underline aspects of the singular community. It is important now to understand the singular 'I'. Establishing the social nature of the self, Blum and McHugh use Husserl's concept of the life-world (1984:13f). In the community chapter I have taken this concept slightly further by introducing Derrida's concept of trace. The life-world became a world of signs. The life-world as grounded in an 'object' reality was replaced by the traces of signs. Mirroring this move from the inaccessible object to the absence of the object in Blum and McHugh's concept of language, language now becomes the possibility of speech. We relate language to experience/action and can begin to see how we come to experience the world through being taught how to speak (how to *use* language). And, to this end, an entirely individual and self-contained experience is made

impossible, since it is experienced always already through speech and, in order to hold any meaning, it must be shared to a degree of recognition (or agreement).

And I will briefly draw a parallel here that is very central: Bataille's rupture and this world based on signs are almost identical in appearance since they both deny the self a relation of radical detachment from the world, but also deny the self an experience of sameness. I cannot experience the world without perspective, but I cannot *share* the perspective of another in any way other than communication. The world is coextensive with a relation to it through others. Blum and McHugh seem to imply that consciousness to be a social product or accomplishment. The self exists within and through the world of signs. The 'I' does not look into the world from outside, but it is always looking within and cannot even look 'out' as everything seen is already a part of speaking and the world of signification.

If the self is part of the world and even its own consciousness is a part of the inter-subjective perception of the language of our lives, then how can it realise itself to be social without ever escaping that sociality? To phrase it differently, how can the self realise itself as always positioned without being able to escape being positioned? This might sound like a false problem: why do I need to be able to escape my position in order to realise it? Any realisation of a position is again already positioned. So this is where the sense of vertigo in Bataille's work enters: it is inescapable and omnipresent with a desire to escape. Blum and McHugh's alternative to Bataille's vertigo is *irony*. The irony is that the very attempt of not being positioned is already a position. This is presumed to be an understanding of the self as ruptured that is not disabling, but arguably enabling.

We can now begin to draw out some similarities and connections of Blum and McHugh's principled action to the concept of being-singular. If the self simply and only exists as an exposition in Nancy's concept of being singular, then the self simply and only exists through experiencing in the phenomenological debate. Consciousness relies on speech, both as experiencing it and as practicing it, both as being exposed and as exposing. But it is not a simple exchange where I speak and you listen and both of us *know the same* as a result. I can write about the rose mentioned in the community chapter, but the reader will imagine a different rose than myself, or maybe will not imagine a rose at all, etc. Blum and McHugh draw on de Saussure and to some extent

on Wittgenstein to make their claim that speech is a sign that connects the signifier with the signified, but the relatedness is a matter of a convention or agreement. The signified is itself a sign, which, as an *ad infinitum* relation, loses itself in a mere trace of signification. So, if two actors look at a rose and both of them are equipped with signs and signifiers to describe it we can imagine one saying to the other: 'Look at this marvellous *Rosa majalis*' and the other replies 'What? What is a *Rosa majalis*? I think that is a rose, and a rather plain one at that.' To this the first speaker replies: '*Rosa majalis* are a particular kind of rose with five plain rose coloured petals' 'Ah, ok, yes, then it is quite a nice specimen of that type of rose.' It might be objected here that this agreement is more than 'merely agreement' and that the two speakers now 'know' the same. I would refute that the second speaker's entire set of signifiers relating to these roses is based on this *one* encounter and also that these can be followed back further: the *Rosa majalis* is a particular type of rose, and the roses that I experienced and signified by these signs relate further to an infinite sequence of signs, a sequence that is distinct to that speaker. Agreeing and knowing are equivalent.

Bataille (1998:25) notes this sense of the arbitrary when he talks of the insufficiency or failure of language as it is imperfect and yet essential to relation. Because the self exists only through exposition, Bataille realises that the desire to escape from language into passionate perception annihilates our humanity. Bataille remains sceptical about language however, and argues that there is a 'silent, elusive, ungraspable part' (1998:28) to being. This is a part that, whenever discovered, is destroyed by that very realisation and it is somehow in this part of the instantaneous experience in which the rupture can be escaped. But, as I argue, we need not escape it at all and even Bataille notes that the 'exchange of a limited number of sentences [speech and time] suffices for the creation of the banal and durable connection ... The exchange between two persons possesses in effect the power to survive momentary separation.' (1998:28)

If language allows consciousness and continuity, and its meaningfulness is merely the result of a conventional agreement, then speech/consciousness is Bataille's very rupture as speaking does not allow me to transfer my experience and create sameness, but I cannot be content to experience without realising my perceptions as an experience, which forces me into speaking, and forces me into exposition, denying me

the complete solitude and detachment that Bataille believes to be the opposite to sameness. If speaking is being conscious, and as an extension, if consciousness is always 'flawed' by its incomplete and essential relatedness, then the term for this is Nancy's concept of being-with or being singular (1991; 2000). Now that we have a self that is inter-subjective (and that related to the community introduced in Chapter 3), we can begin to think of a self that is able to actively expose and conceive of itself as singular.

What Blum and McHugh's theory of principled action will offer us is something they refer to as self-reflection, which is a means of being a theoretical actor who is aware of his or her own singularity and is aware of it through regarding speech as founded in language and speaking in a manner that explicates the actor's own foundation in language. The self-reflective actor, as yet another extension from one theory to another, is an actor whose exposition is explicitly singular. 'Self-reflection in this sense is language recollecting itself.' (Blum and McHugh 1984:35) How would this work? And what does it really mean for language to recollect itself?

If we consider signs and their need for some sort of order or understanding in order to actually exist as inter-subjective, then the question that follows concerns the source of order: the answer to what creates order might not really be an answer as it seems to implicitly rely on the sense of the question. Bataille writes of the need for 'order', although he refers to it as meaning. He claims that:

Now there is no meaning for a lone individual: being alone would of itself reject the "private being" if it saw it as such (if I wish my life to have meaning for me, it is necessary that it have meaning for others: no one would dare give to life a meaning which he alone would perceive, from which life in its entirety would escape, except within himself). (Bataille 1988:42)

In order for me to recognise my own life as life it needs to have been recognised by others as life. For speech to make sense to me it must have made sense to me when I was taught it. As was mentioned in the community chapter Blum and McHugh also draw on a small quote from Wittgenstein in which he describes the only foundation to be a 'deep need for convention' (in, Blum and McHugh 1984:36). And if we simply take the concept of convention in its literal etymological meaning stemming from convening or coming together, then Wittgenstein offers merely a further expression of the Other being part of the essence of the 'I'. It does not elaborate on the cause for this

deep need but simply that the singular self exists with others and in order to exist must be in relation to these others; which is something that occurs only through the exposition of the self (which is the realisation of others and the realisation of the self as other to others).

Now, to return to self-reflection as a means of being aware of one's singularity without some desire to escape it, without a desire for objectivity (an agreement that mistakes itself for being more than an agreement) or without a desire for subjectivity (madness or unintelligibility): we already mentioned that self-reflection can be understood as speaking in a manner that explicates its grounds in language. This also already makes it quite clear how self-reflection cannot try to escape its own grounds: explicating the foundation of the speech-act in language is only ever an instance of speech, an instance of convention, of being singular. Speech effectively examines and reflects on itself as being possible, that is, as actually being an execution of speech. In order for any of this to occur it must also be meaningful, which makes the need for convention clear.

Self-reflection becomes an effort to understand the essence rather than the existence of any given action. It makes no effort to explain that the speech act was conventional, nor does it aim to ensure it was understood. The conventionality is presumed, but the very reason for its conventionality and what makes the speech act a shared instance is what self-reflection aims to express in its own speech. It is this that allows the self-reflective action to be different and allows it to be an explicit exposition of its orientation, position, or relatedness. It might be an odd and small matter to note, but the very basis of its own difference, even in the manner it was briefly explicated here, rests, again, on merely a convention and an agreement (with some an agreement over its difference, with others a conventional challenge to its difference). As the claim of being different is again explicated in language and makes no attempt at escaping orientation and speech, the claim is also tied to the same deep need and is as conventional as other intelligible speech.

Self-reflective action links the actor with his or her orientation and makes it explicit to him or her, as well as an exposition of the orientation explicit to others. Making one's orientation or position explicit forces not only an awareness that there is a position (which might be what Blum and McHugh (1984:61) describe as a self-report)

but also what (or where) it is, forcing the actor to affirm the position as a part of being singular, that is a conscious orientation of an 'I' existent only as part of an Us and Place. This highlights self-reflection as different for the rest of this concluding chapter: it is different from simple compliance since it forces the actor to understand *what* it is to comply and understand the grounds of that compliance and its conventionality.

To put the above into the orientation of this thesis: if self-reflection is not a description of a topic and if it is not simply an account or collection of arguments on what justice is, what could the orientation of this thesis be, if it makes the claim that it is looking at justice self-reflectively? It tries to grasp its own orientation to justice and what it is that enables this orientation in the manner that it is presented. More importantly it aims to explicate the adequacy of that which is made explicit. In an extension of this, the orientation connects the very possibility of justice as conventional in a contextual and particular way (rather than a universal, absolute, and objective value) with self-reflection, or the exposition of one's singularity.

This connection to justice is slightly alluded to in a list of three conditions of a reflective action by Blum and McHugh, one of which claims that the action must be principled, or 'undertaken for its essential desirability', which means that it 'must be moral to a reciprocally oriented actor.' (1984:114) But what does it mean to do something for its 'essential' desirability? Even though Blum and McHugh do not use the word essential to the extent that I used it above, and they do not describe self-reflection as a concern with the essence of a speech act, I argue the essential desirability to hold a similar meaning. Having exclaimed the concept of singularity to be an essential aspect of being and of consciousness, the self-reflective action in the sense that it is presented or used here must be desirable to a conscious actor explicating his or her singularity, that is, realising and affirming his or her *being* as essentially a being-with-others as Nancy phrases it. This adds justice as explicitly related to self-reflection.

'If morality is to practice well, then morality is made to follow upon practice, because it is practice that sets the conditions for moral practice' (Blum and McHugh 1984:116) but if practice is antecedent to morality, then it is already presumed that one is doing whatever one desires to do well. So Blum and McHugh raise the issue of choice and that self-reflection allows not merely a morality of excellence, but also a morality of responsibility where I choose to undertake a practice knowing that prior to

the choice of doing something well I have decided to do it in the first instance. It is this choice that refers back to essence: I did not act conventionally and then commit to whatever action I chose out of convention, but I committed to choosing that very action, realising it as a desirable choice. The ‘morally endowed actor can recognize that he lives in convention but need not be of convention, because it is he who may ... reauthorize convention through the agency of his decision to undertake or not.’(Blum and McHugh 1984:116) Choosing to undertake an action becomes a matter of being conventional explicitly and in that action reauthorizing convention. An actor, in spite of being essentially bound to convention, can now be thoughtfully conventional. It is this choice and the idea of acting responsibly that allows us to move away from a moral action as something that is expected or prescribed by convention or maxim, but something that is chosen. This sense of morality fails when the actor is unreflective and fails to realise his or her singularity and simply, and ignorantly, presumes an action moral because he or she chose it. Self-reflection is not so much an action itself, which also prevents it from being achieved in any sense of completion. Instead it is a way of acting, and a way that does challenge itself and the achievement of the reflectively undertaken action. The element of choice adds a sense of commitment to this orientation towards acting and that an action is undertaken with commitment. Also, since it is a choice, it is an action that can be enjoyed for having been chosen: a self-reflective action is an action that I have chosen to be desirable. Self-reflection is a way of acting with principles: a radically critical conventionality.

SELF-REFLECTION, JUSTICE, SUFFERING

As I recounted Blum and McHugh’s account of self-reflective action I drew out parallels with affirming one’s singularity. And, to draw on the chapter on community and on the chapter on justice again, it was being singular in the sense of being placed and part of an Us that formed one of the central aspects of justice in the way it was introduced. This justice stressed fairness, but it also centred on ideas of affirmative action as a further step towards fulfilling equality where previous attempts have failed to achieve fairness. This section will try to better understand the connection between

justice as fairness and the concept of debt, desert, and expectation and, through these concepts, one of the aspects of its relation to principled action.

What principled action will be used for here is trying to understand how suffering, which has been used to problematise Girard, Kant, Rawls, Aristotle, etc., can be understood as essential to justice in some situations without standing in conflict with being. Utility in the argument concerning the arbitrary sacrifice of anyone destroyed the 'I' by completely annihilating any particularity or uniqueness between those standing in the crowd. Deontology almost did the opposite by empowering the self to be a self-referential and self-contained moral agent. Virtue ethics empowered the I that acts and the I that is acted for, yet it did not empower the actor to care for the self in the action.

It is here where we have to draw a distinction between what is expected and what is right. Blum and McHugh argue, in reference to the above quote concerning the very decision to act as central to self-reflection, that the previous statement of morality as doing something well, presupposes that one has *chosen* to do it. If, instead, the action is expected and one undertakes a task as a mechanical rule-follower through some sense of obligation, the desire to perform the task well is more difficult to see intuitively. If the actor does choose something that is in its essence, as an (explicitly) oriented action, desirable, then there is room for both enjoyment, but also for a derivative desire to do that action well, since the actor has challenged the very conventionality of the action, and, if chosen something more eccentric, or demanding, than is conventional, might even have alienated him- or herself through that choice.

The critical aspect to this distinction between undertaking an action because it is expected (rule-following) or because it is right (principled) is that there are two degrees of failure: a failure to theorise the very action or, once theorised and desiring to perform it well, one can fail to *do* the principled action (1984:117). It is here where there is a difference between McHugh's argument for affirmative action (2005) and the relation drawn out between suffering and justice in this thesis: McHugh's argument could be argued to be introducing the concept of a promise to amend the focus on joy and theorising in Blum and McHugh (1984). Looking at the two failures, the failure to *do* the principled action is a consequence of theorising, so any failure to do what is theorised can also be solved by further theorising and reassessing what might be the desirable action. The promise becomes an instance in which the actor cannot simply

change their mind by theorising again and again, but instead, the promise has to be understood as a means of committing. Whilst McHugh focuses on the implications of a promise and its demands, this chapter, through trying to understand suffering, tries to understand the possibility of making a principled choice in reference to justice. In other words, this chapter wants to understand the promise as commitment, but wants to understand making a promise as a theoretical action. The remainder of this chapter will try to understand the earlier argument of Blum and McHugh (1984) as offering a means to uttering a *principled* or *meaningful promise*.

I think that one of the central aspects to the problem of expectation is that, in the case of McHugh's example of affirmative action with reference to ex-slaves, the original moment of uttering the promise leads inevitably to changes that lead from a challenging choice to an expectation, so that 'justice' as what was promised is slowly subsumed by the mechanical rule-following of an attempt at achieving the promise. I use justice in inverted commas not in an effort to discredit the principled manner in which these efforts to affirm the promise arise, but to discredit the acceptance of a usual routine once the initial principles have themselves become unchallenged convention. In other words, I am beginning to discredit justice that has become an expectation or obligation that no longer requires the initial principle for its execution. This might be what in McHugh's argument amounts to the need to remember the promise and to affirm it: what is discredited is justice that forgets its own foundations and fails to affirm and fulfil a promise.

It is this, specifically, that was the problem with both Kant and Rawls and their respective theories of justice and ethics. What happened through the introduction of absolute principles through the hypothetical original agreement or the categorical imperative is the avoidance of realising singularity or of being principled. The foundation of the arguments with both Rawls and Kant was not to choose an imperative or 'principle' (in the sense of the two rules of justice put forward by Rawls (1972)). The very phrase 'choosing a categorical imperative' is paradoxical, since justice in the way that it completely empowers an already disempowered 'I' allows the self merely to note what is just and to then follow this expectation, follow the rule mechanically (without

pleasure or joy³⁴). So justice as an expectation might not be too bad a solution to the problem of suffering, since it is accommodated entirely within the actor, who simply bears it as part of what duty demands. But this solution does not offer much moral choice, reflection or an explicit orientation, and suffering is merely an obliged compliance with a rule.

The concept of justice should move away from expectation the moment it desires to revolve around fairness, since fairness is not about what is expected, but it is about what is deserved. Maybe something that reminds of Aristotle's virtue of equity, which is not concerned with what I can expect to 'rightfully' (as in legally) attain, but in what I choose to feel deserving of (Aristotle 2006:Bk5.10). The transition from understanding justice as fairness in this way also means that Rawls' initial step of, in the original position, removing all the various 'unfair' preconditions, is very useful in establishing that everyone should deserve certain things equally, but it also removes everything that could indicate what is currently undeserved and unfair prior to deciding what fairness should be.

Deserving is distinctly different from owing!³⁵ And in McHugh's paper it is a distinction that becomes clear, but is never explicated. Justice for McHugh is no historical debate about what perpetrators owe victims, or a debate about how a past injustice indebts the perpetrators and their children. It is a distinct move away from what, in the ritual sacrifice chapter was called retribution. Justice as fairness is not a punishment. Instead of understanding fairness as being indebted it needs to be understood as the Other deserving something. This greatly removes the awkward historical argument of an inherited debt, that is, the argument that a white person should not have to pay for the crimes of his or her great-grandparents. Instead it is not about

³⁴ A realisation also expressed in Schiller's joke on Kant which is described by Williams as 'well-known' (1968:59) but appears well known only to some Kantians at best. In the *Xenien*, which Schiller wrote together with Goethe as a collection of small poems to mock critics, who said they were written in a moment of drunken exuberance (Goethe and Schiller, 1893:V), he writes about his bad conscience since, loosely translated, he gladly helps his friends, yet does so with desire. This pains him since he loses faith in his virtue. So instead, he answers for Kant, he should seek to detest his friends, so that helping them become a displeasurable obedience of virtuous duty. (1893:102)

³⁵ It might be objected that these words are near synonymous. 'Owing', however, describes a relation of exchange whereas 'deserving' describes a relation of ethics/justice in this usage. This does not mean that there are no instances in which these are synonymous, but maybe, a clear example of the difference is McHugh's (2005) plane crash B story where the rescuer discovers a mortal enemy that is injured. The rescuer does not owe the enemy any help since the enemy has never helped the rescuer, yet the enemy deserves to live.

what was taken away, but what has yet to be given. Justice becomes (or is) about fairness of placed singulars who deserve due to their belonging to a place: the place is historic in one of its dimensions, but it is not history.

Distinguishing and emphasising what is deserved over what is owed does not just change matters for those that have been historically and currently advantaged in McHugh's example: the white face. It does not simply affect the relation of the white face to suffering (being denied a position on the basis of a black face deserving an equal chance), but it also changes the relation of the black face to their disadvantage. A black face can demand and pursue what he or she deserves: this might include activism, rallies, petitions, political involvement, a discussion over dinner, etc. But pursuing what is deserved has to be distinguished from pursuing what should be taken. The statement 'we deserve a fair opportunity!' is critically different to the statement 'we should be given some of the opportunities of white faces!' If justice is a communal virtue it needs to focus on what is deserved and what is undeserved in order to avoid the disruption of the place into parties that cease to co-exist: into victims and perpetrators, into punishment and retribution. This disruption would result in an antagonism where the place is no longer shared but contested as the question of who deserves it becomes derivative to the question of whom it belongs to. Justice as fairness does not desire to disrupt a place because of its past but tries to affirm a place and community in light of its past: justice as fairness is always sensitive to the place in which it occurs. Justice is an action that is oriented in the same way as the proponents and opponents to its execution.

But, we are starting to run into an issue that will need addressing: did the black faces purely deserve the equal opportunities in their pursuit of happiness because of a promise, or did the promise itself already recognise the black faces deserving what was promised prior to the promise being uttered? If a promise was never spoken, does that make inequality fair? Or does it simply create a society (or community) that does not care about fairness? Linking justice to the promise we will have to be careful not to equate justice with the promise but retaining justice as expressed through a promise, the promise itself being a commitment to justice. But, for now it is essential to note that, if the promise was uttered as a recognition of black faces being a part of a place and the black face being a fellow and a part of an Us, then deserving equal opportunities should

be understood as positively enforced, rather than negatively enforcing a punishment for the injustice. The white face that suffers the failed job application is not punished and never owed the black face that job, but the black face deserved it and the white face did not.

The major criticism of this argument, and this role of the past in relation to the place might be a worry that it becomes a simple denial of the past, that matters considered gravely unjust and even criminal which happened in that past warrant no punishment. But, this argument is not one of criminal justice, but it is one of distributive justice, and if justice becomes about something other than the pursuit of fairness in its first instance, then it ceases to concern itself with distribution. Hopefully it is clear that this thesis does not advocate a stance that simply neglects injustice in the past, that is, it does not advocate a simple unshackling and half-hearted apology in the example of slavery, but that it builds on the past. This allows for regret concerning the past, a regret that is shared and a regret that extends responsibility into the present for whatever remnants of this regretted past that still remain. It creates responsibility for what is unfair today in light of what has been recognised to be unfair in the past.

Principled action, or self-reflection as one of the foundations of justice allows an understanding of suffering that does not antagonise but that places the actor and allows him or her to be distraught at the failing to get the job or the university position, but, if it were challenged, take pleasure in the fairness of the selection procedure, since he or she did not deserve the position as much as the black face. This example, however, only presumes that there is some procedure in place. It does not clearly state that this is a form of affirmative action, but it purely states that a black face was considered instead of the candidate. It might be that the black face was actually more highly qualified and that the fairness has been achieved and justice as fairness has become an achieved convention. What it tries to show is not that affirmative action, which McHugh suggests to be the next step towards fairness, is principled action. What it aims to illustrate is that justice, even when it has become a generally held convention and matters are, as far as anyone can tell fair, is still possibly understood as a principled conventionality: our candidate who did not get the job can reflexively find the procedure to be fair or unfair, he or she can choose to follow it. Principled action is not necessarily dissent, revolution or opposition to some established norm. This point is a rather important one to note

before looking at the next and final section, which tries to engage with issues of uttering a challenge, or recognising something as unfair.

BEING RESPONSIBLE AND BEING-RESPONSIBLY

Having placed emphasis on what is deserved when considering justice, affirmative action has become a seemingly more reasonable means of pursuing justice. Whereas formal equality or categorically equal treatment based on criteria of merit relevant to a position (such as qualifications) might be considered a valid form of justice in its own right, the emphasis on what is deserved challenges the focus on outcomes, which are equality and fairness, by instead focusing on pursuing them. It forces the defensive stance which asks ‘why do I owe *them*’ into a ‘we deserve this equally’, allowing what is deserved to be pursued more aggressively or affirmatively, since the self that is advantaged is no longer directly responsible for some long past cause of an inequality, but the position held or applied for *today* is not deserved as inequality remains. But this shift away from direct responsibility for a past injustice towards a consequential responsibility for injustice that remains is also a shift away from *being responsible* to *being-responsibly*; a shift that is linked to the move away from individualism towards self-reflection or a singular understanding of the self. This is a move away from passive inherited guilt to an actively recognised responsibility. It is always difficult to understand personal responsibility in instances of communal injustice or justice. In many cases there is a situation of spectacular recognition of a handful of individuals, either saints or villains. Referring to an extra-ordinary individual as responsible is easier than an ordinary one. However, if justice is communal, then being responsible becomes oddly insignificant to the ‘ordinary person’ and those that find themselves responsible and act or fail to act become ‘extraordinary’. Understanding justice as fairness not purely as a specific desired achievement, but also as a means of encountering the world and understanding the self in that world leads this thesis to move towards justice as being-responsibly, and not a simple matter of being responsible for achieving or not achieving justice.

Being-responsibly does of course relate to being responsible and I am not suggesting that one can be responsibly without being responsible for actions or

involvements. But being-responsibly is a means of referring to the ability of recognising responsibility. In the rather common language use of ‘taking responsibility’ we can maybe find a more intuitive means of expressing what being-responsibly is. But ‘taking responsibility’ is also misleading and too simple as it can both mean that if an actor does not take responsibility then he or she is less responsible and it mean that the actor is personally responsibility for all kinds of matters.

In understanding what being-responsibly is it is essential to refer back to self-reflection. If we return to the matter of choice and self-reflection offering a means to theorise the very grounds of a convention by understanding the essence of its conventionality, then we can understand being-responsibly as an extension or reformulation of this ability to self-reflect: it allows a degree of responsibility to be placed in conventional (seemingly ordinary) behaviour. Self-reflection gives us a means of knowingly complying, which also allows us to understand compliance as able to be aware of its choice in complying. When I mentioned the two types of failure noted by Blum and McHugh, which also relate to two types of success, we can now understand how being-responsibly allows the actor to understand his or her responsibility when he or she failed to reflect on a compliance that is later realised to be unjust. It also allows the very same actor to understand his or her responsibility in recognising a convention as unfair or unjust and that responsibility prompts something other than mere compliance: subversion, resignation, disruption or reform. This leads eventually to an understanding of responsibility concerning current injustice that prohibits blind compliance or mechanical rule-following: being-responsibly requires the actor to either a) comply responsibly, maybe, upon reflection, holding the firm belief that the current procedures are the best way to overcome the identified injustice or b) formulate an alternative convention or c) choose not to do either.

If being singular requires what Blum and McHugh described as self-reflection, then being-responsibly is the explicitly ethical component of one’s singular existence. It is the recognition of responsibility of myself as singular: it is the recognition of myself as *being* my relation to others, but that this relation is not passive as a result of its centrality to my very being, but it is *being*. My consciousness is already an accomplishment of what singularity aims to realise, and it is an accomplishment for which I am also responsible, and not simply a product of. This also brings us back to the

section of desert over debt as one's being-responsibly singular means that an actor recognises his or her situatedness, since that is the very place of existence and exposition. The singular actor recognises how he or she relates to others in a place and what others relate to as part of their relation to me and the place, and it recognises that acting is a moment in which the actor becomes responsible for *being*.

Another aspect of this realisation of the self is that it allows for the recognition of one's own and the Other's particularity not just in a way that is a confrontation with it, but that relates to the grounds or foundations of that particularity as part of the shared place. This ability to be responsibly and also be singular in a broader sense avoids an issue that became very obvious in the chapter on the excessive self sacrifice: it is a way of being that is not simply necessary for the white face in the here used example, but also for the black face, as both need to be able to realise particularity, and choose their compliance to conventions and their relation to a place. The problem of excessive self-sacrifice that goes beyond what is deserved is not an issue here, nor is the gratitude, thanks, and indebtedness. So both sides of the black and white example, but also any other relevant particularity is necessarily recognised as part of one's relation to others, culminating in what could be regarded as a richness in texture, allowing someone to be more than white, but legitimately stressing their 'whiteness' when this is relevant. Being singular recognises not only what the Other deserves, but in that very moment it also recognises what the self deserves (and maybe even what the place in general deserves).

To stay with McHugh's example of the end of slavery and his call for equity as a supporting policy to achieve equality: the black face can realise that he or she deserves the position awarded through equity, and deserving it means that he or she is in no way *particularly* indebted to their community or place. Understanding his or her own particularity, its grounds and its impact on orientation and position within the community and place, makes the black face in this instance singular and responsible.

Having better understood justice as something that is contextual in a very deep way³⁶ it is also important to return to some concept of minimal justice: if Margalit can be agreed with over the matter that there is something more basic and more urgently

³⁶ A *deep* contextuality is different from a complex or complete contextuality. The word *deep* tries to describe the relation of justice to the very foundations of community and of the singular self, rather than describing justice as relativist.

important that justice, which is decency, then I would briefly try to elaborate what this decency could specifically be for this thesis. Margalit describes it as non-humiliation. And he describes humiliation as an injury to self-respect by the ejection from some sense of shared humanity (1996:3-9). And we have encountered this humiliation previously in this thesis in the chapter on ritual sacrifice and spectacular suffering. If humiliation can be slightly rephrased to be an injury to the self's consciousness, then humiliation is silencing. This is meant in quite a broad sense: prescribing and muting exposition. Murder is the gravest act of silencing. McHugh (n.d.), in a later paper, notes that death does not necessarily *end* existence, since the singular continues to circulate. This state of being singular is one of complete disempowerment as the self no longer exposes itself, but others only ever expose it. Being exposed makes it quite adequately sound like a violence of sort. If consciousness is exposition, then death, in this sense, marks the end of consciousness, but it also allows singulars to be silenced in ways other than death. The prescription of myth, or the prescription of the survivor in a struggle, as has been mentioned previously, is a foundation of 'murder' or humiliation. If there is a minimal justice then, it relies on exposition. If there is something such as the recognition of another's humanity, it is the recognition of the Other's existence as actor, as/through exposition. To this extent, there is no worse injustice than that which is actively silenced, and humiliation is always an exposition in its own right, it is an action and never merely a circumstance.

But, as Margalit also states, 'Every just society must be a decent one, but the opposite does not hold.' (1996:3) Allowing another to coexist is still a very different matter than being consciously singular, that is, exposing oneself as explicitly singular responsibly. A decent society can quite conceivably be a society of mechanical rule-following which is centred on conformity rather than community (in the singular sense). And it is at this point where the difference between rule-following and principled action and justice's reliance on principled action becomes central again. It would be an incredibly demanding understanding of justice that demands the constant revision and reflection on all acts from simply conforming to a self-reflective conformity. If a white face buys a coffee and the barista happens to be black it is not a failure that the white face does not contemplate why he or she does not enslave the barista. It is something that is not considered relevant as something to constantly consider. But as a convention,

particularly in reference to McHugh again, it must have begun with white faces freeing their slaves (or slaves resisting their masters), that is, faces challenging what was a convention that in many cases went simply without questioning. Not having slaves was a reformation of or resignation to a conventional action that until then was not deemed unfair. In order to be just, it is not essential to realise the grounds of the convention on a daily basis, but it is essential in the recognition of a prevailing injustice. Theorising, or being singular, allows for this recognition and McHugh's promise provides us with a way of expressing a commitment to changing the recognised injustice. However, if an action has become a highly conventional norm that is accepted, it becomes something resembling Girard's mimicry: the moment of freeing slaves is re-lived on particular days and certain special anniversaries. Memorabilia aids the celebration of this day. This transformation of a revolutionary moment into a mimicked rehearsal creates stagnation: mechanical rule-following. This is what McHugh seemingly understands as one of the problems that calls for equity, since the promise is rehearsed as an achievement. Having been 'achieved' it becomes forgotten and a mere convention until a further instance of reflection: a challenge to following conventions the way they are followed, since the foundations of the very convention are no longer an aspect of it. The promise needs to be affirmed again. In McHugh's letter of resignation we encounter a similar moment of challenge, which might not revolve around justice, but it revolved around a neglect of one's foundation, in this instance with a university (1992). In the case of the end of slavery in the United States the promise was extensive and in the five years after 1865 the former slaves were granted freedom, citizenship, and the right to vote.³⁷ Whereas freedom and voting was easily achieved by opening a pen and providing a ballot it is the promised citizenship that offers the ex-slaves to be a part of the place that was founded by a declaration that recognises the equal pursuit of happiness as an inalienable right. The promise recognised the injustice of slavery (which is a humiliation in the sense mentioned above) but also welcomed slaves as singular into the place that they had shaped and had been an unrecognised (silenced) part of.

³⁷ For the exact phrasing of the promise read Amendment XIII, XIV and XV to the Constitution for the United States of America.

This leads us to the promise: McHugh rightfully stresses that a promise is not the achievement of what is promised. It is, however, an achievement in its own right. The differentiation that needs to be made is that between uttering a promise and achieving a promise. When I noted the problem of equating a promise with justice earlier we have to understand uttering a promise as an action that follows the recognition of injustice and responsibility. It is an achievement and accomplishment much in the sense that Blum and McHugh's (1984) principled action is an accomplishment. But, as a new concept that extends Blum and McHugh's work, the promise that McHugh theorises is what makes this recognition demanding and it becomes something that has to be pursued and that binds and commits the community to that which is promised. In contrast to duties, or virtues or even mythical sacrifices, the obligation from this kind of promise allows for the self to affirm it: the promise has its foundation in a genuine moment of recognition, a moment of being *conscious*. We can also understand how the promise can be forgotten in two distinct ways: a promise can be neglected and then forgotten, or a promise can become a rule that no longer affirms its foundations in the recognition of injustice. It is the latter way of 'forgetting' that McHugh tries to explicate in his argument for affirmative action. To this end McHugh utters a challenge: the promise is not yet achieved and might never be achieved with the conventions that have been created in an attempt to achieve it (such as formal equal opportunities unaware of particularity).

With regards to gratitude: this chapter has attempted to distinguish justice as doing what is deserved from doing what is expected. This distinction is not one of mutual exclusivity, since, as has been pointed out, the just action can well be and hopefully in many cases is what is, in fact, expected, yet it is done reflectively, with an awareness of what it is I am complying with and why the expectation is grounded in fairness, rather than purely grounded in it being expected. The differentiation is one that hopefully allows us to understand the relation to gratitude better: doing what is deserved warrants no gratitude and would not provoke gratitude if it were the same as what is expected. But there are instances of fairness that result in gratitude, where something is done that is considered fair, yet unusual. Why the thankfulness? Justice, in the sense of reflective consideration of one's action, is other than purely doing what is expected

mechanically and the thankfulness is not ‘silly’ or ‘undeserved’, but it might purely be a thankfulness not for successfully doing what was reflectively thought to be just, but to theorise in the first instance: self-reflection being distinct from expectation. Maybe gratitude in actions that are fair yet resisting convention is gratitude for theorising, much in the way that there is high regard for a desire to do an action well, rather than merely complying.

CONCLUSION

Gratitude, however, was not the central issue of this thesis: what recurred with regard to the various ethical theories and theories of justice, is suffering and its relation to justice. They are clearly not opposites: suffering is not by definition unfair, even if, by definition it is undesirable or displeasing. The three chapters that dealt with various ways of being ‘just’ have also all concerned themselves with various forms of accommodating suffering. Generally, this chapter has argued against mechanical rule-following; even though rules and duties, and their relation to suffering might at times be quite desirable: it no longer understands itself as suffering. When I comply with the university’s admission system and get accepted I do not sit in a lecture and lament the fact that there are female students with a sense of pity for all those fellow male students who did not get a place. If I simply, mechanically comply with the rules and regulations, when I comply with the convention I do not perceive something that might, at one point, have been considered suffering. So what seems to be the linking instance between justice and suffering is the uttering of a promise in McHugh’s example, or equally, the affirmation of a promise.

I compared McHugh’s paper itself to a challenge, much in the way that the original promise must have been a challenge. When considering suffering and justice, the critical importance of a way of coping with the perceived and felt suffering occurs in instances of a challenge, in instances of reflectively and/or singularly realising either the failure to recognise an injustice, or the subsequent failure to pursue the injustice that has already been realised.

The prescription, the mythical foundation, the murder, and the spectacular silencing of a victim under the empty gaze of an enchanted crowd leaves an obvious

difficulty in recognising an injustice. Most importantly, the mythical community, the communion, where the 'I' is silenced in the pool of the Other that is perceived as *same* to the self, is incapable of uttering a promise to anyone but itself as a communion: how could it theorise? A homogeneity that silences its own heterogeneity can only ever perceive itself as same, as fair, as just.

Deontology allowed a step further: the capacity to theorise the failure or success of achieving what has been promised. But, as I pointed out, it lacks a foundation or grounds. What does that mean in terms of theorising? Deontology and Rawls allow us to theorise the failure of promises, to reflect on the failure to achieve what has been promised, but all the promises have already been uttered. The society of the equal individual has no possibility to utter a promise. 'Keep your promise' is one of Kant's examples for a categorical imperative (1998): it is a promise already uttered. 'Promise' or 'Commit to the injustice that you have recognised' is already reliant on the recognition itself. Rawls and Kant did not offer us an imperative or a principle forcing us to recognise injustice. When we return to the two failures/successes: a) theorise/choose an action and b) accomplishing the chosen action, then deontology can only grasp the second failure, since the action itself is already given in the principles and rules taken from the equality of all singulars.

What about the virtues or the saintly life that was looked at in the previous chapter? It offers us a clear capacity to utter a promise, a capacity to commit to something. But the attempts at introducing a means of balancing the importance of the self against the Other became a matter of conflict and the virtuous actions became either excessive, since the saint was willing to promise a commitment to goodness over fairness, failing to regard the self as deserving; or, even with virtue as moderation in the Aristotelian sense, the promises of distributive justice became promises of what can be afforded, and not promises of what is deserved. The hero, the saint and the virtuous actor always promise to the Other, never *with* the Other. This, just like the other cases, was all related to a failure to conceive of the self as essentially oriented and essentially existing purely as an orientation, as a related 'I' amongst an Us and Place.

And this is how we return to the concepts of self-reflection, being singular and being-responsibly. If justice relies on the capacity to make a promise, or to commit to justice in instances where it departs from general convention, then justice relies on the

capacity to reflect on one's actions and the grounds of these actions in one's orientation as a singular being. Being just in this way has to accommodate suffering as a consequence of recognising injustice and *choosing* to act fairly, that is, committing to do it well.

What about the grounds for the suffering? In this understanding of justice, or suffering, I do not suffer for the Other, but I suffer grounded in my reflection. I suffer since I consciously recognise the fairness of the suffering. I suffer as a result of my consciousness, in the sense that it was elaborated as an achievement above. I suffer as a consequence of *being singular*.

9

POSTSCRIPT: HODITES

'I write wanting to be read, but time separates me from a moment in which I will be read!' (Bataille 1998:156)

Writing is different from dialogue. Not many dialogues spend tens of thousands of words talking uninterruptedly. If anyone would talk in such a manner they might not get many invitations to dinner parties or get-togethers. Yet, my writing is itself not a continuous piece of writing that began with the title and finishes here, typed in one long session. This thesis was written in a way more akin to a dialogue than the way in which it will most likely be read, with the constant interaction with sources, notes scattering across surfaces, ideas and concepts changing, making more sense, less sense, no sense, perfect sense resulting in a creative process in which I constructed a text.

This idea of construction requires us to gaze at the desire I hold for the way in which it is read. It might be objected at this point that this is a postscript, so it might be too late to prescribe or expose a desire or intention of how to engage with the text. But that would be to misunderstand the intention of this postscript, since the main concern of it is not an attempt to prescribe a way in which the thesis should have been read, but it tries to understand and outline the thesis as written and not merely as read. As such it aims to offer the reader a way in which to orient out of the thesis. I cannot retrospectively change how the text and reader have engaged with each other, or the meaning that the reader created from my text, but I can hope to begin to utter a further and final invitation. The postscript is the thesis insisting on not being the final word.

Whereas the methods chapter offered an invitation to engage with the thesis the postscript offers an invitation to respond to the thesis, and much like with the methods, which looked at reading and writing, I hope to outline a set of premises to frame the invitation. Maybe an analogy would be inviting strangers over to one's home: instead of simply extending an open invitation to visit under any condition, this postscript is hoping to make that invitation a little more specific, say dinner at eight o'clock?

In the spirit of the parenthesis analogy that was used in the very beginning, this closing parenthesis was said to return the reader out of this thesis. Looking at the intention of an invitation we can regard this exit of the reader as the thesis falling silent and waiting for a response, waiting to be turned into dialogue, waiting to become an I and hearing of an Other.

To this end I will aim to look at three factors that are addressed in more conventional method chapters, namely validity, reliability and correctness. The reason for raising these issues here is that, prior to a response, it is these three factors that most clearly set a framework for a response as it will try to anticipate misunderstandings or differences. Maybe regarding these three factors has a sense of arrogance or rudeness about it since the author expresses an invitation, which to some extent is obliging. I invite the reader not to merely recite or reproduce the text, I desire it not to be rated on criteria quite alien to the intention of the thesis in order to be appropriated and then forgotten. This postscript asks the reader to engage with the thesis' foundations and content in a dialogical way.

VALIDITY AND VIOLENCE

If Alan Bryman's basic description of validity as the 'degree to which a measure of a concept truly reflects that concept' (2004:541) can be taken as in any way authoritative, then validity is not a concern for this thesis. A concern with validity is a concern with following convention meticulously without aiming to understand the possibility of that very concept. In this thesis justice and suffering were not presumed to exist as a measurable concept that is part of an 'objective' reality. The concerns of this thesis unsurprisingly regard validity as already relying on a concept of self unconnected to its world: the researcher can stand isolated from the concept, the intelligibility of

which is self-contained so that every researcher, given the methods, can produce similar results as long as the methods involved actually produce valid results, that is, as long as the concept is correctly measured. This already links validity to reliability and correctness, but we will dwell a moment longer on the way in which I desire the relation between the description of concepts and a relation to the concept itself to be understood. So, I cannot yet formulate an invitation, but I can start to exclude certain forms of approaching this thesis. The reader of this thesis must be understood by this thesis and myself as influenced by reading this text: presuming the reader were to try and repeat my argument leaving from the same premise, then having read my argument already radically changes the point of departure of the reader. Similarly, this thesis would have been quite different if I, as author had not been familiar with McHugh's paper on affirmative action or if I had been more familiar with other possibly relevant works.

It is the understanding of speech as signification bound by language that removes this thesis from the realm of objectivist validity. Maybe this is presumed to be a given, since ethics and justice could be considered a normative rather than a factual concern. However, there are instances in which positivists have argued normative theories of ethics to be meaningless compared to a factual enquiry into ethics. For example, Moritz Schlick's (1939) assumption that ethics as normative science will be little more than linguistics or the arbitrary creation of meanings ascribed to concepts. As a factual science, however, ethics could explain the general laws and *natural* content of actions, which, once scientifically explained can then be used to easily show what ethics is. (1939:28) However, this thesis does not try to provide such a factual account of justice though. It even aims to discredit the possibility of describing any fact as independently true by radically placing any *fact* in the realm of speech. This rejection of validity causes its own problems though: it offers this thesis to the uninvited criticism that it is not scientific or factual enough and that what it says, given its own premise of knowledge relying on signification, is simply a speech act like any other and therefore does not aid understanding in any way.

If there is only infinite signification that assumes the shape of tracks or traces both dia- and synchronically, then what can this thesis hope to be than merely another sign? Let us assume that positivism (or thought concerned with an objectifiable truth discovered through *scientific* method) would engage with justice in the following

manner: it would aim to discover what justice is through some rigorous inquiry into factual laws of nature that found the explanation and description of ethics in something considered independently true. Ethics, trying to show the ‘causal explanation of moral behaviour’ (Schlick 1939:28) could be researched in psychology, as Schlick suggests, but justice, being concerned with human interaction, could be researched sociologically. In both cases the aim is to empirically and objectively note what justice *is*.

The reader of this will undoubtedly have picked up that this thesis is not an empirical or scientific engagement with the topic of justice and suffering, nor is it greatly or exclusively concerned with clarifying a *sign* by somehow generating a sense of agreement. Instead this thesis began with two premises: a conception of *being* and McHugh’s (2005) paper on affirmative action as justice. From the starting point of a plurality of justice there was a need to begin and engage with various arguments that express claims of having found a sense of justice that is true and to regard their foundations: what enables the claim for justice in these instances to be reasonable and possible, especially with regard to my own foundations in a particular sense of human essence.

My very topic, trying to regard the possibility of a suffering that can be considered just, led me to violate meaning. This does not mean that I intended to misrepresent theories or make theories ‘match’ my desired conclusions. Instead it refers to my research being interested and explicitly oriented and the violence is not a concern with citing other theories that disagree. This orientation was the attempt to uncover suffering as one of the concepts that make justice possible in many instances. Writings on justice in this thesis were read in order to understand their foundations and what makes their connection between justice or suffering (or the neglect of that relation) sensible and then, returning to the understanding of justice and community, to make the concepts relate in a manner that gives suffering a clearer position in the possibility of justice. I do not discredit theories as factually incorrect, nor do I aim to imply that my theory is factually correct and can stand by itself irrespective of context and irrespective of my orientation. All of the theorists used in this thesis are understood as interlocutors, as speakers who contribute, alter my orientation, engage with my premise and actively alter my truth, instead of being disregarded as having only false claims to offer that can at best help to illustrate the truth of my speech. This is not a harmonious process, but as

the chapter on methods mentioned, it is occasionally violent and unconventional as I try to draw connections and relate texts that, if the desire were explanation, might not seem to share anything.

This engagement with material is akin to some of the definitions of deconstruction and the attempt to dismantle dichotomies to show their reliance on a common ground. But, unlike, for example, Derrida's deconstruction of inside/outside or speech/writing oppositions (Derrida 1976), this thesis did not start with an opposition. Instead it seems to be a deconstruction that does not try to unsettle an opposition, but that tries to unsettle a concept: namely justice. Maybe the violence, instead of disrupting the agreement of a source's usage by showing some logical flaw (which admittedly was one of bases of the critique of Kant) rested on discerning the foundation or possibility of the argument and then going on to show that these foundations seem to fail to account for or genuinely found the argument presented. For example, Rawls was originally considered as an author who founds justice in a moment of agreement, but the thesis tried to disrupt this agreement, partly by relating the agreement to mythical sacrifices that were considered in the previous chapter. Eventually, disrupting Rawls' foundation showed that, if we share his desire to understand justice as fairness, we need to abandon the idea of an agreement that is unanimous and hypothetical.

Given my disregard of validity and my orientation and desire to do violence to sources by disrupting foundations or possibilities I can only invite my reader to do the same. So, if I mentioned that this postscript aims to specify the invitation offered, it is here that I first explicitly invite the reader to disrupt the foundations of this thesis to explicate the foundations it rests on. But expressing this aspect of the invitation is already becoming counter-productive as I am starting to transgress the mere expression of a desire for the reader to explicate my foundations by implying that my thesis already rests on the disruption of its foundations. In other words I am implying the arrogance of foresight rather than merely extending an invitation. It also seems an arrogant invitation in a second way: it presumes the reader to have read this thesis purely for its own sake, rather than relating to a topic or as one of many possibly relevant authors. Moving away from the invitation to disrupt my foundations I will move on to the implications on completeness.

RELIABILITY AND COMPLETENESS

If we regard reliability in a more common-sense usage (which could be seen as relating to the research-method concept of reliability) as implying a sense of trustworthiness and dependability then the very idea already precludes an invitation to respond in any manner beyond a commendation or gratitude: ‘thank you for reliable results!’ This does not aim to ridicule its importance in scientific research, nor does it aim to ridicule scientific research. Instead I am trying to explicate that the concept of reliability as out of place as a criterion of engaging with this thesis. In fact, it is a criterion that only in its failure can invite engagement since its success would only offer the thesis up for consumption: the question posed would be answered by the thesis, which would be considered complete and self-contained. This thesis would be stagnant. Maybe intelligibility is a measure that better expresses the desire of this thesis to remain alive, that is, to be inviting the reader to respond and to become an Other in dialogue. Intelligibility places the thesis, it makes a genuine demand on it, yet it merely invites the reader to interpret and not to replicate. I would also like to clarify a necessary distinction between the dialogue (or topic) within which this thesis stands and the thesis itself. This thesis is itself ‘complete’ in the sense that it has a final page, it has been edited, polished and is a contribution that is delivered with a sense of pride. However, this completeness is different as I am insisting this thesis not to be a ‘definitive answer’, that is, a final word that finally ends the dialogue conclusively; instead this could be understood as a ‘contributing answer’.

This leads us towards intelligibility: what this thesis desires to be is a successful execution of language that is understandable and interpretable. But intelligibility relies on being read. And returning to the invitation it is already explicitly denying this thesis’ completeness. Maybe this distinction between the complete and incomplete is reflected in Derrida’s book/text distinction (Howell 1999:74) where the text is described as partial and fragmented, which is a necessary consequence of writing, whereas a book implies that there is nothing outside itself as it is complete. McHugh et al formulate this similarly, noting the ‘essential incompleteness [which] is grounded in our form of analysis and in the idea that collaboration cannot be exhausted by any actual paper nor any actual reader.’ (1974:10) Their concept of collaboration relies greatly on the idea of

an alter and ego, or the I and the Other, which returns us to the invitation. If I have already said that this work invited the reader to disrupt or otherwise explicate my own foundations then incompleteness might just enforce the sincerity of the invitation as it leaves the text open as a contribution to a dialogue that cannot be finished. It understands the text as something that leaves the reader able to speak something in response.

This leads me to one issue for the reader and the invitation. The invitation could be one of two things: 1) if this invitation is intended to ask the reader to explicate the foundation of this thesis, then, presuming my desire in dialogue is genuine I might feel compelled to write on the foundation of the response. Or 2) the invitation could be an engagement with this writing as a source in a text on a topic (say justice) in which case it would not be a reply directed at this thesis alone, but an engagement with regard to an author's question.

The infinite dialogue which has no topic but where each utterance becomes itself a new topic might be problematic since it makes a dialogue on a specific topic more difficult as the speaker loses all concern with the content of his or her speech to engage with the reply as a topic in itself. This type of conversation seems less desirable as the dialogue that manages to sustain a topic and jointly aims to formulate speech. McHugh et al (1974:4) describe a method of collaboration where someone writes a paper and others write a paper in response each to then speak jointly in a manner. This text is not finished or complete in that sense since it still leaves the text open, much in the manner that this thesis is open to response. So instead of the invitation being that of a general response that only serves to explicate my foundations, it desires a response that shares a concern for the thesis' topic. This is very much the second way of approaching this text: using it as a source by explicating and by disrupting its foundations. It is also a means of noting specific questions and aspects that were omitted or are implicit, yet were not explicated. For instance, my thesis relies on various forms of empowerment: stressing the injustice of silence, mentioning conformity, resignation, resistance, talking of promising others, of what is deserved, and so on. The foundation of justice and suffering as relating to concepts of power could be one example of an engagement with the foundation of this thesis aiming to better understand justice. In other words, regarding justice and suffering can be argued to have opened up the topic of justice and

power as underlying the role of suffering. Another example might be the very broad concept of suffering on which it is founded offering itself up to be more specifically engaged with: how can we better understand suffering in light of its relation with justice?

IRONY AND RESPONSIBILITY

But, if we remove completeness and I already rely so heavily on the endless signification, then what is the purpose of this thesis? In other words, what is the point in writing when the best conceivable outcome is merely another text that signifies, or a means of inviting questions? So how can we avoid succumbing to some form of paralysing nihilism (Bonner 2001) where there is nothing *true*? In the first instance I have to stress that a mere conviction that my findings are objectifiable truth does not change the problems with positivism mentioned so far. So the question is not so much a question of how I can write in this fashion rather than an empirical positivist one, since this rejection (or realisation about the world's foundation in the singularity and discourse) is an irreversible one.

All that remains in many ways is the text. 'There is no outside-text' (Derrida 1976:158) does not however need to be an end that results in an emptiness. It is not too unlike the rupture that Bataille fears and was argued to be no cause for a desire to escape, but instead can be an empowering moment at ease. Writing singularly allows me to write passionately and responsibly. Passion already presumes some sense of purpose about which I can be passionate: realising the centrality of discourse, text, convention and agreement in all aspects of truth cannot ever doubt the existence of truth. What I mean by this is that text is 'only' the foundation of truths not the destroyer of truths and discourse itself again relies on truth.

How can I speak responsibly? If I were to understand myself as merely uncovering truth in an objectivist sense, then it becomes difficult for me to be responsible and truthful at the same time, instead I can either be one or the other. Truth in this sense would imply that the truth I speak is independent from my speech so I am not responsible for its consequences. A failure to speak truthfully, on the other hand, would make me responsible for what I said, but my speech would in that very moment

discredit itself, that is, fall silent. Considering truth as generative and reliant on text I can begin to speak responsibly and truthfully – committing passionately to my speech since I have chosen to speak. Maybe we can consider this truthfulness as a form of honesty. This does not yet solve the issue of my speech as anything other than yet another meaningless speech act in an overall meaningless and arbitrary game of exposition. As was said, speech is all that needs to be, in order to be comfortable, however, if I understand speech in this way, then I must begin to understand my thesis as attempting to be thoughtful and theoretical: my thesis tries to better understand the relation between justice and suffering, but is aware of the active part in which the formulation of the relation is generative of that very relation. I speak with the orientation of better understanding justice by situating myself actively in that which creates justice: language. So, a critic might argue that this is just another arbitrary contribution, but this thesis is both at ease with this sense of arbitrariness, but it is also oriented (and consequently not arbitrary in the sense of aimless). The orientation is towards the Other (the reader) as the ‘truth’ of this thesis depends on its intelligibility, that is, its success as a contribution to a dialogue. I will hence return one final time to the idea of an invitation.

This thesis aimed to explicate the connection between justice and suffering, eventually offering the idea of a promise as a means to enact and affirm singularity as placed, offering the promise as a means of being at ease with justice in a way that might otherwise lead to libertarianism, communitarianism or a paralysing rupture. Commitment releases Bataille from his agony. But this thesis, in that same instance offered itself with an invitation that I can now narrowly describe as my desire for the reader to engage this thesis as a *source, explicating or disrupting its foundations in order to speak responsibly and committedly*.

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