Deconstructive Aporias: Quasi-Transcendental and Normative[*]

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Abstract

This paper argues that Derrida's aporetic conclusions regarding moral and political concepts, from hospitality to democracy, can only be understood and accepted if the notion of différance and similar infrastructures are taken into account. This is because it is the infrastructures that expose and commit moral and political practices to a double and conflictual (thus aporetic) future: the conditional future that projects horizonal limits and conditions upon the relation to others, and the unconditional future without horizons of anticipation. The argument thus turns against two kinds of interpretation: the first accepts normative unconditionality in ethics but misses its support by the infrastructures. The second rejects unconditionality as a normative commitment precisely because the infrastructural support for unconditionality seems to rule out that it is normatively required. In conclusion, the article thus reconsiders the relation between a quasi-transcendental argument and its normative implications, suggesting that Derrida avoids the naturalistic fallacy.

Keywords

Derrida; deconstruction; ethics; morality; politics; aporia

1 Introduction

This paper seeks to convince the reader of two connected points. The first concerns the relationship between Jacques Derrida's early work on ontology and the philosophy of language and his later work on ethics and politics. While there is a tendency in some secondary literature to

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treat the latter as standing on its own, I argue that Derrida's treatment of some key moral and political concepts, from responsibility to democracy, is easily misunderstood without taking into account the 'quasi-transcendental infrastructures' (*différance*, iterability, and so on; see Gasché 1986) that Derrida largely developed in his early work.[1] The second point builds on, but also supports, the first. It concerns the reason for the obtrusive fact that the conclusions Derrida reaches in his treatment of diverse moral and political concepts turn out to be rather similar to one another: the concepts are said to be aporetic, that is, beset by inherent, conceptual contradictions. The reason for this similarity is that all of the practices named by these concepts are enabled and at the same time disabled (that is, rendered possible and impossible) by the infrastructures. For the latter require that the practices commit themselves to both a projected, horizonal future and a non-horizonal, unanticipatable future 'to-come'. The conflict between these two temporalities yields uncircumventable aporias. The fact, then, of the structural homology of Derrida's moral and political conclusions shows that a more general structure must be at work, and one helpful way of linking the conclusions in terms of aporias to these infrastructures, I argue, lies in the twofold futural temporality. Thus, both points, singly and jointly, not only show why the infrastructures are needed for understanding the moral and political aporias, but the way in which the connection, each time anew, is to be understood. I will conclude with some brief comments on the relation between a (quasi-)transcendental argument and normativity in order to dispel worries about the naturalistic fallacy.

[1] While Gasché's use of the word 'infrastructure' derives from Derrida's own at the time of *Of Grammatology*, Derrida indicated later he preferred to speak of the quasi-transcendental "limitless generality of *différance,* the trace, the supplement, etc." (Derrida 1992d, p. 71).—In referencing Derrida, I will give the page number of the French text only where I departed from the English translation or inserted in the latter original terms or phrases for ease of comprehension.

Given that the second point also supports the first, we may begin with the second point, while showing as we go along the ways in which Derrida can be misunderstood, even by those sympathetic to his conclusions, if the connection of the later with the earlier work is neglected.

2 Aporias in Derrida's later work

Many of Derrida's commentators have pointed out that, since the early 1980s, his work turns more explicitly than before to moral and political questions. The question as to whether this later body of work is consistent with what Jacques Rancière calls "the apparently apolitical discourse of *Writing and Difference* or *Of Grammatology*"[2] has often been raised, and equally often put into doubt, despite Derrida's claims of consistency and continuity.[3] Rather than examining these debates themselves, I suggest we look at the later explicitly 'political' work to see what relation it might have to the earlier texts. A preliminary survey of the later body of work shows an in-depth treatment of a number of moral and political concepts (some of which might be regarded as more marginal than others with respect to classical and contemporary definitions of the field). To attempt a list of these concepts, a list that is not only incomplete but threatens to hide the connections among them: law and justice (in, to name in each case only the most obvious texts, "Force of Law"), forgiveness (in *On Cosmopolitanism and Forgiveness*), hospitality (in *Of Hospitality* and "Hostipitality"), cosmopolitanism (in *On Cosmopolitanism and Forgiveness*, *Adieu*, etc.), responsibility (in *The Gift of Death*), gift-giving (in *Given Time* and

[2] Rancière (2009, p. 274).
[3] Derrida (2005, p. 39).

The Gift of Death), friendship (in *The Politics of Friendship*), and democracy and sovereignty (in *The Other Heading*, *Specters of Marx*, and *Rogues*).[4]

What is striking is that the treatment of all of these concepts involves what Derrida calls a "privilege" granted to "aporetic thought."[5] In all of these cases, Derrida reveals an aporetic structure besetting the concept in question, so that, as he says, "ethics, politics, and responsibility, if there are any, will only ever have begun with the experience and experiment of aporia."[6] To give some brief examples:

- Law and justice are said to be aporetic in structure insofar as they require but also contradict each other. To sustain and perfect itself, law must seek to establish justice while justice needs enforceable law for its maintenance. Yet they remain in conflict insofar as the conditions of law introduce an element of egalitarian universality that militates against the 'incalculable' singularity of doing justice to concrete circumstances.[7]
- Hospitality is said to demand unconditional openness to guests, but such openness to the alterity of the other is in conflict with the need of the host to place conditions on the stranger in order to remain master of the premises and sovereign with regard to its borders, without which there would be no host and hence no hospitality (*Of Hospitality*).
- A similar aporetic structure befalls gift-giving. Derrida argues that with a true ('pure' or unconditional) gift, the donor may not receive (and that means, expect or reckon with) a return, otherwise a gift would be indistinguishable from an economy of exchange. And

[4] In texts of this period, Derrida is quite willing to give such lists himself, pointing out the manifold connections among these concepts in order to help readers, especially those unwilling 'to do their homework'; Derrida (2005, p. 172 note 12); see also Derrida (2002a, p. 353ff.); Derrida (1994, p. 178 note 3); with regard to aporia, see Derrida (1993, p. 15ff.).
[5] Derrida (2005, p. 174 note 3); cf. Derrida (2002a, p. 358).
[6] Derrida (1992b, p. 41).
[7] Derrida (1992a, p. 10f.); Derrida (2005, p. 150); Derrida (1997, p. 22).

yet, the gift can hardly fail to return, even if only in the form of the donor's conscious or unconscious feeling pleased with herself for her generosity.

- In *The Gift of Death*, Derrida also ascertains an aporia in the notion of personal responsibility. On the one hand, a responsible act requires accountability to others in terms of public norms, of which the agent must thus have knowledge. On the other hand, if a responsible act was entirely justifiable by public norms, as if by an anonymous reason acting like a machine, then the agent could not make the act her own. The norms themselves would have decided for the agent so that we could not attribute the act and its corresponding decision to her.[8]
- Democracy, in its claim to be open (i.e., hospitable and giving) to all and in counting all singularities equally, inherits these aporias and adds its own. To maintain its sovereignty, a democratic state must define (that is, circumscribe and limit) its membership and territory, but it must also claim hospitality to singular others, including the members who are declared enemies of democracy.[9] In a by now well-known discussion, Derrida uses the 1992 elections in his native Algeria as a case in point: to remain democratic, the state suspended democratic elections that were on the brink of bringing to power an Islamist

[8] In this way, the aporia of responsibility connects with the aporia of law and the aporia of decision, the latter also having been discussed, in terms strikingly similar to Derrida's, in the context of sociological systems theory. What Niklas Luhmann calls the paradox of decision (Luhmann 1993) has been expressed by Heinz von Foerster, in a manner akin to Derrida (1992a, p. 24), in the following way: "Only *those* questions that are in principle undecidable, *we* can decide"; Foerster (1992, p. 14). If a decision was not undecidable, but rather ranked by criteria outside of (though at the disposal of) the deciding agent, the criteria would decide for the agent, and the agent could not make the decision her own. In addition to its reference to norms of accountability, there must be an unpredictable and subjective moment in a decision qua decision (Luhmann 1993, p. 295). The relation between Luhmann and Derrida around law has recently been explored in Teubner 2008.

[9] Derrida (1994, p. 169); Derrida (2005, p. 13, p. 36).

party that threatened to end democratic rule.[10] It seems that a democracy must be prepared to exclude some would-be members (e.g., presumed enemies) from participation, thus resorting to undemocratic means in order to save democracy.[11] On Derrida's analysis, the aporia is not only connected to hospitality but lies in the idea of a freedom that democratic practices must grant but also limit. The limits on freedom are to be imposed in the name of, and so as to protect, a practice that, however, cannot fix the limits once and for all as it must remain essentially contestable and thus underdetermined according to the idea of democratic self-determination. The aporia of freedom, he goes on to argue, is connected to tensions between the incommensurability and thus "unconditionality" of freedom[12] and the need to render free individuals commensurate in the name of equality. In this way, it also links up with the aporias of a justice caught between universal-egalitarian treatment and the demand to consider individuals singularly, on their own terms.[13]

In each of these cases, then, an unconditional and a conditional version of the concept—justice and the law, unconditional openness and conditional hospitality, the pure gift and economic exchange, democratic freedom and openness and the limits needed for equality and sovereignty,

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[10] Derrida (2005, p. 30).

[11] We may also apply this line of thinking to the more recent issue of post-Baathist Iraq, with regard to which the US invasion, in part under the banner of spreading democracy, imposed some serious questions: Should Islamic fundamentalists be allowed to vote and stand for elected office if their express aim is to end democratic rule? Must a democracy not, as the Algerian state did in 1992, halt, by sovereign decision, democratic elections that threaten to overthrow democracy, thus deferring democracy to a better time? Should this not have been done in 1933 in Germany, for example? A further example Derrida gives, this time as a "more visibly auto-immune process", concerns the reaction of the US and other Western democracies to the 2001 terrorist attacks: the restrictions of democratic freedoms in order, allegedly, to protect itself against the enemies of democracy (Derrida 2005, p. 39ff.). If democracy is the only quasi-regime that is open to its own historical transformation (Derrida 2005, p. 25), this openness can extend itself to the point of risking democracy's own abdication. As Derrida puts it: "the *alternative to* democracy can always be *represented* as a democratic *alternation*" (Derrida 2005, p. 31).

[12] Derrida (2005, p. 48).

[13] Derrida (2005, p. 34; cf. p. 48).

etc.—are shown to be "irreconcilable but indissociable,"[14] or "at the same time, but also by turns, inseparable and in contradiction with one another,"[15] so that the task is to "think *together both* this heterogeneity *and* this inseparability."[16] As a result of this aporetic co-implication, Derrida calls for moral and political decisions to recognize—that is, not to disavow—the ineluctable impossibility of reaching a fully just, hospitable, forgiving or generously giving decision. All decisions would thus have to pass through what Derrida calls the "ordeal of the undecidable"[17] or the "experience (and experiment) of the impossible."[18] Given the undecidable choice between two co-implicated yet mutually exclusive options, a golden mean cannot be hit, as in Aristotle's gradual scale between the opposite extremes of virtue.[19] Derrida's analysis shares with Aristotle, however, the consequence of an utmost attention and attunement to singular contexts, although such attention, even if that of an infinite (and omniscient) mind, cannot ever lead to a fully just decision. Recognizing this should prevent us from seeking to realize an ideal that would suppress tensions and contradictions; with this recognition, we should be in a better position to limit, as best as we can, the inevitable violence of political decisions.

The aporetic result, on which Derrida insists above all, depends on demonstrating the inseparable yet conflictual nature of the relation between the unconditional and the conditional concept in each case. If we could have either one by itself, or both without conflict, no aporia (or, in Adorno's words, 'negative-dialectical' relation[20]) would result. Thus, we would need a demonstration of (1) the ineluctability of both concepts, conditional and unconditional, in or for

[14] Derrida (2001, p. 45).
[15] Derrida (2005, p. 100).
[16] Derrida (2005, p. 150).
[17] Derrida (1992a, p. 24).
[18] Derrida (1992a, p. 15); cf. Derrida (1992b, p. 41).
[19] Cf. Derrida (1991, p. 65).
[20] For further explorations of the similarities in argument between Adorno and Derrida, see the recent collection of essays in Waniek and Vogt 2008.

the practice (legal justice, democracy, gift-giving, etc.) which they name or to which they belong, and of (2) the contradiction between conditions and unconditionality. Different interpretations are possible as to how (1), what we should call the indissociability or co-implication thesis, is to be understood, and how it relates to (2), the conflict claim.[21]

The first interpretation (call it the semantic interpretation), perhaps a natural one, claims that the idea and practice in question simply consists of both conditions and the unconditional: the normative content of hospitality (or of the gift, or of justice, etc.), demands two different things from us, and they happen to conflict with one another. The second interpretation (we may call it the functional interpretation) emphasizes that the conflict is not incidental, but results from the fact that one concept functions as the condition of possibility (and, given the conflict, impossibility) of the other. On this view, the necessity for both (a) the unconditional concept and

[21] The distinctions that follow are similar to, but also different from, Christoph Menke's. Menke distinguishes what I call the semantic from the functional interpretation, but the point of the latter, which he argues is superior, is for him to precisely avoid appeal to the 'purity' or unconditionality of concepts (Menke 2002, p. 246), which he finds spurious (cf. Menke 2000: chapter 2). As the passage from *Rogues* on unconditionality cited in the text above—a passage Menke could hardly have known in 2002—and its surrounding context (Derrida 2005, p. 148ff.) make clear, doing away with the necessity of such an appeal to purity would run counter to Derrida's express intent. What renders the purity so suspect, however, is its semantic interpretation coupled with a historicist claim, according to which we have inherited strong, pure concepts that govern our practices and that we cannot shake off, at least not easily. But this historicist-semanticist (Menke calls it 'theoreticist') misunderstanding should not lead us to abandon the unconditional concept Derrida often insists upon; rather, we should ask whether the 'purity'—which is not the same as the purity of a signature, Menke's initial example (Menke 2002, p. 246)—is not rendered less suspect by its (un)grounding in an infrastructural account of the singularity, and thus unpredictability, of every event. Significantly, Menke's motivation for abandoning the semantic interpretation is that the third of the aporias Derrida discusses in "Force of Law" cannot be covered by that interpretation. It cannot because the aporia results from the conflict between the urgency of a justice here and now, and the "countermovement of a deferral" (Menke 2002, p. 250; my translation), which cannot be understood as part of the normative semantic content of a concept. We should notice at this point, then, that the temporality of deferral, so extensively discussed in Derrida's earlier work, and precisely in relation to singularity, plays a critical role in the argument for an open-ended justice in "Force of Law", the text on which Menke focuses.

(b) the conditional one results from the fact that one cannot realize the unconditional concept without attaching conditions (that is, going from a to b), that is, by also betraying it. Going the other way (from b to a), one may seek to demonstrate that the conditional concept necessarily enables the unconditional one which, however, it also renders impossible.

In passages such as the following, Derrida suggests the second, functional interpretation. After having discussed justice, the gift, forgiveness, and hospitality as examples or "figures of unconditionality without sovereignty", he writes:

> In the open series of these examples, we have to think together two figures of rationality that, on either side of a limit, at once call for and exceed one another. The incalculable unconditionality of hospitality, of the gift or of forgiveness, exceeds the calculation of conditions, just as justice exceeds law, the juridical, and the political.[22]

To say that justice, for example, 'calls for' the law is to say that a just decision is enabled by law in that it cannot do without norms that function as reasons for the decision, reasons that prevent arbitrariness, that seek to ensure that like cases are treated alike, and that are backed by the power of enforceability. But justice must also respond to the unpredictability of a singular situation that is not already covered by law, so that law is 'exceeded' by incalculable justice. Like any interpretation or action, law cannot predict what its outcome will be and how its application will turn out. Legal processes are enabled by this excessive justice as it would otherwise be an algorithmic machine without motivation and direction, we could even say: without reason.[23] Similarly, unconditional hospitality calls for conditions to protect the host from the arrival of the other, but no such conditions could ultimately protect the host from surprises. If the host could be

[22] Derrida (2005, p. 149).
[23] Derrida (2005, p. 150); cf. Derrida (1992a).

so protected, her life would be rendered utterly immune to the other who serves as life-supporting contexts, and so would be equivalent to death.[24]

In this way the functional interpretation supports the strong version of the 'indissociability' thesis needed for aporia, namely the mutual but intrinsically conflictual co-implication of conditions and unconditionality: they need but also exceed one another, and in this consists their aporia. Before turning to examine the similarity of the aporetic conclusion in each case, wondering if a structure can be found that accounts for it, let us look at how some commentators have taken these claims (1a, 1b, and 2) to have been established. This will expose why it is very difficult to support the indissociability thesis without drawing on Derrida's earlier work, work that is more expressly dedicated to the 'infrastructures' that are said to make worldhood and meaning possible. Not viewing the later texts in continuity with the infrastructures tends to suppose a divide between 'apolitical' ontology or philosophy of language and Derrida's treatment of moral and political concepts. By contrast, I hope to show that these concepts are treated in the later work as a way of *re-stating* the infrastructures, of re-describing them without, however, being merely descriptive or constative. Viewing the aporetic concepts against the background of *différance* can then also be viewed as a propadeutic device that helps to guard against a misreading along the lines of an inapplicable division between theoretical and practical philosophy, a division Derrida rejects precisely by pointing to the way in which every constative depends on performatives.[25]

3 Secondary Literature on aporias

[24] Derrida (2005, p. 152).
[25] Derrida (1992a, p. 27).

There are two interconnected reasons—a third one having to do with how one reads the relation between Derrida and Levinas[26]—why one may easily overlook the infrastructures at work in Derrida's treatment of ethics and politics. The first has to do with the so-called 'quasi-transcendental' status of the structures in question. Among other things, this status implies that the structures are (as we will see in section 4) not separable, not even in philosophical analysis, from their use in concrete circumstances.[27] The circumstances form a context that co-determines and co-constitutes the structures to the extent that a good analysis of the structures should include a historical-empirical or genealogical account. Hence, if Derrida wants to show them at work in moral-political practices, he cannot just assume the structures from the beginning and limit himself to conceptual analysis; rather, he must discover them each time anew in those practices themselves. Secondly, and largely as result of the quasi-transcendental status, Derrida often begins his analysis with such a genealogy or phenomenology (often not his own) of the context in which our moral and political practices take place, and of the pre-comprehension of key concepts that the history of our lifeworld, our heritage and tradition, bequeaths to us. One may then be tempted to think that in particular the unconditional version of concepts like hospitality, gift, or justice is implied in the phenomenological analysis of a practice and the pre-comprehension Derrida at times discusses in the style of ordinary language philosophy.

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[26] In fact, a certain emphasis placed on the proximity of Derrida to Levinas yields another, and highly significant, reason for commentators to neglect the connection of Derrida's infrastructures with the later 'ethical' work, and to stress in particular the need for unconditionality without reference to *différance* and other infrastructures. One has the impression that the more a commentator is disposed to accept unconditionality in ethics, often though not always as a result of studying Levinas, the less she tends to pay attention to the role of the infrastructures in Derrida. Conversely, the more critical of Levinas the commentator is, or the more he insists on the difference between Levinas and Derrida, the more the infrastructures, and the inevitability of 'violence' they bring to ethics and politics, tend to be stressed even in Derrida's later work. For the second alternative in particular, see Hägglund (2008), Laclau (1996), and Beardsworth (1996).

[27] See Gasché (1986), Beardsworth (1996), Bennington (1993); also Fritsch (2005, chapter 2).

Along these lines, commentators at times suggest that one may reconstruct Derrida's indissociability-thesis by showing the need for the unconditional concepts to give force or meaning to the conditional ones, without which the practices they name would then be said to be unable to be what they are in the first place. For instance, the argument goes, hospitality requires an unconditional welcome of the guest on the part of the host, for without this erratic opening, it is hard to see how an act could really qualify as hospitable rather than an attempt by a host to show off his wealth and his sovereign power. This is how Paul Patton put the point in a well informed discussion of Derrida's aporetic analysis, a discussion that rightly begins by noting the alternation between the conditional and the unconditional in Derrida's treatments:

> Strictly speaking, it is only the existence of the unforgivable that gives force, or meaning, to the idea of forgiveness…If one forgave only that which is forgivable, then the concept of forgiveness would lose its force, just as the concept of a gift would lose its force if it meant that one would give only that which one was able to give, or the concept of justice would lose its force if it were reduced to the idea of procedural justice in accordance with law…Derrida identifies a parallel antinomic structure in the law or the concept of hospitality: On the one hand, hospitality as it is practiced in particular contexts is always conditional…On the other hand, the conditional practice of hospitality derives its force and its meaning from a concept of unconditional or absolute hospitality.[28]

Patton goes on to note Derrida is well aware that the unconditional concept could never be practiced as such, that praxis inevitably introduces conditions, but he notes that the "unconditional form of the concept is necessary in order to inflect politics or bring about change" (Patton 2004, p. 31). On this account, then, there are two related reasons for the inescapability of the unconditional concept. First, the necessarily conditional practice would not be the practice that it is without being rendered 'meaningful' by the unconditional concept. Second, historical change (in particular for the better) requires that the practice be driven by the 'force' of

[28] Patton (2004, p. 31).

unconditionality, that is, animated or guided, by its absolute concept. In Kantian terms, the latter would thus act as both a constitutive and a regulative concept for the practice in question.[29]

In his introductory commentary on hospitality, John Caputo similarly derives unconditional openness from the need to give force or meaning to hospitality, rather than relating this need to Derrida's infrastructures. On his account, the "self-limitation" or "tension" in the idea of hospitality—the host may open her premises only up to the point of not losing control over the premises—requires not simply, as one might have supposed, that the host seek to find the best possible compromise between the guest's needs and those of the host. Rather, the tension or limit internal to the idea calls for an excessive gesture that Caputo identifies with a pure gift:

> Hospitality really starts to happen when I push against this limit, this threshold, this paralysis, inviting hospitality to cross its own threshold and self-limitation, to become a gift *beyond hospitality*. Thus, for hospitality to occur, it is necessary for hospitality to go beyond hospitality. That requires that the host must … make an absolute gift of his property, which is of course impossible.[30]

Here too, then, unconditional openness is required to realize 'real' hospitality, a hospitality worthy of its name. In response to this kind of commentary, I do not so much wish to suggest that this way of arguing for unconditionality, and hence for aporia, is mistaken as that it is incomplete. What is missing is a discussion of the infrastructures that neither Caputo nor Patton mention in their (admittedly brief and introductory) essays. A more detailed textual exegesis could show that, while Derrida does say, for instance, that "only an unconditional hospitality can give meaning and practical rationality to a concept of hospitality,"[31] he either directly characterizes hospitality, the gift, or justice as quasi-ontological concepts that help us think the event (of being), or refers these concepts to the quasi-transcendental structures in the relevant

[29] As we will see, however, Derrida argues that unconditionality explodes the future horizon of perfectibility projected by Kantian ideas; see Derrida (1994, p. 86 ff.); Derrida (1992a, p. 26).
[30] Caputo (1997, p. 111).
[31] Derrida (2005, p. 149).

texts, even if these references are at times indirect and follow a presentation of the aporia in a fashion similar to Patton's and Caputo's.[32]

To be sure, it would be difficult to recognize a practice as gift-giving if the donor expected a swift return in kind; or as forgiveness if the suffering party merely forgot the harm or demanded a price for its forgiveness; or as an act of hospitality if the host sought to circumscribe, as a condition upon welcome, the identity of the guest in the most rigorous and detailed fashion, leaving the latter hardly any freedom. And certainly, progress with regard to legal norms and practices, both in terms of law-making and its application, is often, perhaps necessarily, driven by the idea of doing justice to singular cases, to individuals and circumstances not thought of before, and so on. But why must we forgive that which cannot be forgiven? Why would a gift not really be a gift if, as Patton says, the donor gives only that which she is able to give, or the host welcomes the guest only to the extent that her means allow? Why does a host have to exceed a

[32] In fact, Caputo's "Commentary" responds to a roundtable in which Derrida discusses hospitality and the gift without bringing up the infrastructures explicitly, although he does reference the relation between justice and non-identity (Derrida in Caputo 1997, p. 17); between hospitality and the quasi-ontological *khôra* (p. 18); as well as between the gift and the limits of phenomenal appearance as such (p. 19). In his written texts on moral and political aporias, these references are more motivated and less indirect; I refer the reader to the corresponding references in the body of this article. Later in the same book, in his commentary on the roundtable, Caputo also notes the relation between justice and time (Caputo 1997, p. 153), notices that Derrida's discussion of the gift references *différance* (Caputo 1997, p. 143), and calls the gift a "quasi-transcendental" (Caputo 1997, p. 141). However, he does not discuss the quasi-transcendental infrastructures as being required for the conditions or for unconditionality that make up aporias in their conflictual indissociability, nor does he note that, for instance, the gift or hospitality is, as Derrida says, another way of thinking the event (Derrida 2002a, p. 94; Derrida 2005, p. 148). Rather, his account of the need for unconditionality in the context of the gift is consistent with the one he gave for hospitality: the aporia (which he equates with a tension or self-limitation) is said to demand that gift-giving go beyond itself, exceed itself toward a pure gift (Caputo 1997, p. 144; cf. Caputo 1998, p. 160 ff.). One might wonder whether this account is again circular, as if a practice were impossible by definition: if the aporia consists in the 'tension' between the conditional and the unconditional, and this aporia—the impossibility of the gift—is used as a premise to infer the demand for the unconditional excess, then it seems the unconditional could not already figure in the premise. The purity of the gift would have to be supported otherwise, for instance, by what we mean by the 'gift' in ordinary language or by *différance*.

hospitality that Caputo says is impossible? Is this not to argue for aporia in a circular fashion, namely, to presuppose that a practice must be impossible for it to be a practice at all, as indeed Thorsten Bonacker suggests?[33]

Most moral and political philosophers, no doubt with good justification, see it as their task to (re)define extant concepts so as to clarify their meaning and avoid their (often inherited) inconsistencies. This is how Aristotle responded to his famous accounts of 'aporias', and many of his heirs still see this as the properly philosophical response. For example, John Rawls' method of 'reflective equilibrium' precisely seeks to establish consistency between our intuitions and our political concepts and principles.[34] This kind of philosopher might notice the tension in the concepts Derrida treats, and then seek to reduce the tension—which is, *pace* Caputo, not right away an aporia, the latter disallowing such conceptual refinements[35]—in her proposal as to how we should henceforth understand the concept and let it guide our practice. Along these lines, it seems we could argue that hospitality means openness to the other but only to the point of not destroying host or donor. Once the host's generosity reaches a point where she stands to lose ownership over those premises that permitted her to serve as host in the first place, or otherwise surrender her ability to act as a moral agent, it would no longer be mandated by the idea of hospitality. This definition of hospitality would preserve, it seems to me, the meaning of hospitality and yet be sufficiently ideal to give force and direction to changes in the practice: a host could not arbitrarily limit how many guests she accepts, and under what conditions. It would of course be difficult to specify the conceptual limit to hospitality in concrete circumstances, and this specification should clearly not rest with the host alone, but the problem of context-

[33] Bonacker (2002, p. 270).
[34] Rawls (1996, p. 385ff.).
[35] Caputo (1997, p. 111).

sensitivity, and its possibly abusive redefinition by parties in concrete contexts, besets any abstract principle. Thus it seems possible to think the tension in hospitality between guest-regarding openness and host-protective conditions without aporetic conclusions, and it appears possible in principle to define responsibility, the gift, law, friendship, and democracy in similar, non-aporetic terms.

It would hence appear that we cannot account for the aporetic co-implication of both unconditionality and condition without some further argument. While conditions seem inescapable at least in the case of hospitality—there must be a host who remains master over some premises or property and thus cannot unreservedly open herself to guests—it is unclear why the openness must aim at an unconditional welcome for us to speak of hospitality, rather than something less radical but at least realizable. In the terms we used above, the path from (1b) to (1a) seems to be unnecessary and so the 'indissociability thesis' fails: the conditional concept does not require the unconditional one. The further argument needed here would have to be able to range across the different, allegedly aporetic, concepts we have mentioned, and show the necessity of commitment to both the conditional and the absolute version of the concepts. As we will see, such an argument could be one that accounts for what gives 'meaning' or 'force' to concepts in general in such a way that the commitment to absolute openness is inescapable for meaning-making and comprehending agents. That is why I said Patton's gloss is not so much wrong as incomplete.

At times even those commentators sympathetic to Derrida in general, and in particular to the claim (often with a Levinasian inflection) that ethics involves unconditionality, do not see the need for further argument referencing the infrastructures exposed in greater detail in Derrida's

earlier work. Generally seeking to close the distance between Levinas and Derrida,[36] Robert Bernasconi, for example, claims that Derrida's only support for the contention that a gift may not at all return to the donor, and so requires a radical abdication or purity without the imposition of conditions, is the meaning of the word 'gift' in some (European) languages.[37] This leads Bernasconi to charge Derrida with naively inheriting Marcel Mauss' methodologically suspect and substantively false generalization from only some ordinary languages and cultures to a universal structure, thus invalidating Derrida's claim to be more historically specific than Levinas:

> If Mauss's subsumption of the diverse practices he studies under the restricted connotations of the term 'gift' was questionable even to Mauss himself, one would have expected Derrida to have known that his readers would be at least equally suspicious about his imposition of the logic of the gift on very diverse cultural practices and would want an examination of the evidence for its applicability… Not only does Derrida fail to take the opportunity to distance himself from Mauss's insistence on universal structures, he leaves unclear his relation to the empirical evidence from which those universal structures are supposedly drawn by Mauss. If Derrida's reading of Mauss is dominated by his interest in the ahistorical paradox apparently at the expense of the specificity of the evidence, does the genealogy fare any better?[38]

After some further discussion, Bernasconi concludes that Derrida's genealogical investigation of the concepts in question lacks historical specificity and cannot escape a Western bias: "It is Derrida's faith in the Greek *logos* that makes it possible for him to declare that the aporia of the gift is universal, even as he locates its origin in the juxtaposition of the Greek with the Judeo-Christian."[39] These accusations of Eurocentric or logocentric parochialism coupled with methodological naïveté bent on aporetic conclusions have been further elaborated by social scientists such as Marcel Hénaff. He too accuses Derrida of "inconsiderately applying [certain

[36] Bernasconi (1988), (1997), (1998).
[37] Bernasconi (1997, p. 261).
[38] Bernasconi (1997, p. 262-263).
[39] Bernasconi (1997, p. 269).

concepts] to the gift without discussing their origins or relevance and above all without wondering if it was even possible to speak of gift in general." This is said to be because "from the outset, Derrida's approach to giving was situated in aporias and wished for aporia."[40] Both Hénaff and Bernasconi hold open the possibility of understanding the gift differently, so as to possibly avoid aporias (even if Bernasconi does not go so far as to say that the aporetic conclusion is unwarranted). For instance, there may be a giving, originating in some languages or cultures missed by Mauss' and Derrida's generalizations, that would not be pure in allowing for a deferred return, or a reciprocity that did not indicate a selfish interest on the part of the donor.[41]

These criticisms merit careful consideration: certainly we could not accept the impossibility of giving in general on the basis of mere definitional fiat (according to which 'gift' would have to mean unconditional or pure donation) or false and possibly Eurocentric induction (according to which the purity of the gift is implied in the meaning of the term in some Indo-European languages, but by no means in all cultures). But can Derrida, whose early fame rests in good measure on criticizing these very gestures, in particular in anthropology (see the discussion of Lévi-Strauss in *Of Grammatology*), really be accused of them without further ado? I do not wish to analyze *Donner le temps* in detail here, but a brief indication as to what these criticisms miss may point us in the right direction. To be sure, Derrida picks up the purity of the gift, that "there must be no reciprocity", by suggesting at the start of the analysis that we "still entrust ourselves [*fions-nous toujours*] to this semantic pre-comprehension of the word 'gift' in our

[40] Hénaff (2009, p. 216). Hénaff (2010) distinguishes between ceremonial, free or pure, and solidary gifts.
[41] Hénaff (2009, p. 219). To avoid aporias, Hénaff (2010) helpfully distinguishes further between ceremonial, free or pure, and solidary gifts, though it is not clear that Derrida's account of the gift would not be relevant to all three. See also the discussion, edited by Dirk Quadflieg, of Hénaff's work in *WestEnd* 2010, 7:1, 63-132, including essays by Hénaff and Axel Honneth.

language or in a few familiar languages."[42] Already the "still" may be taken to characterize the "trust" as provisional or at least as incomplete, and Derrida expressly limits it to some languages. More importantly, the pre-comprehension is characterized from the outset as itself a gift without identifiable donor, for we can understand one another, for example on the notion of giving, Derrida says, only by moving within a *given* horizon of a shared understanding, which forms a kind of involuntary contract between us and accounts for the "faith or good faith that we lend each other."[43]

The commonality of "our" given language, the shared nature of pre-comprehension, is then later[44] put into doubt by "a dissemination without return" that "ruins everything that claims to know what gift and non-gift mean to say," disallowing a "unifying principle of all the idiomatic locutions in which one finds the noun 'gift', the verb 'to give', the adjective 'given.'"[45] Referring the reader to his earlier work *Dissemination* in a note, Derrida then makes clear that it is this disseminating "gift" of language, of the space of meaning within which speakers always already move about, that makes of every gift, including the 'good faith' that we give one another in all acts of understanding (perhaps similar to Davidson's principle of charity), a pure gift without return:

> We could interrogate this essential passage between the gift and this dissemination—what I in the past defined as that which does not *return* in general… This hypothesis of a dissemination without return would prevent the locution ['gift', 'to give', 'given'] from circling back to its meaning. It thus also concerns—whence the paradoxical fold [the

[42] Derrida (1991, p. 12), French original (p. 24).
[43] Derrida (1991, p. 11).
[44] That is, after Derrida had identified the time that Mauss says is required for a gift in the cultures he studies (the recipient will return a gift but only later) with the *différance* that requires a deferral to an indefinite time, a time from which no return could be calculated or expected (Derrida 1991, p. 39).
[45] Derrida (1991, p. 48).

> redoubled double bind, between the bind (established by a gift) and the non-bind or the letting loose]—the without-return of the gift [*le sans-retour du don*].[46]

There then follows a discussion of a long list of locutions involving notions of 'to give' so as to lend empirical plausibility to the claim that 'to give' is irretrievably polysemous or disseminative "without a unifying or classifying principle,"[47] the absence of which also leads Derrida to doubt the translatability of the term.[48] The text then proceeds to draw some methodological conclusions from this, for instance, with respect to "analytic philosophy or […] ordinary language analysis" as well as Husserlian phenomenology.[49] On this basis, it would be difficult to maintain that Derrida naively relies on one language or set of languages to establish the meaning of the gift as pure, and that he then generalizes this meaning to all languages and cultures. Rather, and as one would expect based on his earlier work on structuralist linguistics, he questions the possibility of a shared understanding of the term 'gift' in even a single language due to the disseminative effects of *différance* (about which more in a moment).

How then can Derrida still say that all gift-giving (and in fact all exchange), even if the donor always calculates a return,[50] involves a moment of purity, of unconditional openness and non-return? The answer lies precisely in this dissemination: if all giving is enabled by it but dissemination also thwarts all efforts at anticipating how the gift is received, understood, and what is done with it, then dissemination makes of every gift a gift without return to the donor. A gift binds and obligates the recipient, but also releases and unbinds her, 'lets her loose' to do with it what the donor cannot expect or control, by deferring and opening the social practice to an unknowable future.

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[46] Derrida (1991, p. 48); French original (p. 69).
[47] Derrida (1991, p. 50).
[48] Derrida (1991, p. 52).
[49] Derrida (1991, p. 50).
[50] Derrida (1991, p. 11, 101).

Even this relatively brief excursion into one of Derrida's later texts reveals that the aporetic conclusion the text claims for a moral or political concept and practice cannot be understood, and indeed appears foregone and artificially construed, without taking the earlier work on infrastructures such as *différance* and dissemination into account (which may be why Derrida references these earlier works at crucial junctures in the argument). One may even doubt, *pace* Torsten Hitz,[51] whether the imported distinction between theoretical and practical philosophy, between the earlier "ontological" work and the later "ethical" work, can be applied here at all. Derrida himself expresses his doubts: "The thinking of the political has always been a thinking of *différance* and the thinking of *différance* always a thinking *of* the political."[52] As indicated at the outset, and as will have emerged in the discussion of *Donner le temps*, the similarity in the aporetic conclusions suggests a (we now know, disseminative) structure at work that Derrida, one would hope, not so much imposes on his understanding of the moral-political practices he analyses, but re-discovers in them. That is why I suggest we analyze just what accounts for the similarity of results in the various analyses of different moral and political concepts. The treatment of diverse concepts in similar terms of aporia suggests a structure at work, a structure that might determine itself differently in different contexts, and yet produce the aporetic results in all of these cases. As we will see, the two claims needed for the co-implication-yet-contradiction thesis discussed above are also not quite defensible without being seen in continuity with the early, quasi-transcendental work. What is this disseminative structure?

4 Two futures of *différance*

[51] Hitz (2005).
[52] Derrida (2005, p. 39).

In this section and the next, I will show that one useful way of thinking about the structure that gives rise to aporetic co-implications is an inescapable alternation, necessitated by *différance*, between two concepts of, or better, two ways of relating to, the future. Like the conditional and the unconditional we saw at work in various moral and political concepts, the two figures of the future are inseparable yet contradictory, 'irreconcilable but indissociable'. Beginning with *Specters of Marx*,[53] Derrida has termed these two figures, in a perhaps misleading way, the messianistic and the messianic future, or, less theologically, the future (*l'avenir*) and the to-come (*l'à-venir de l'avenir*). The first term in these pairs refers to the future present of horizons of anticipation, expectation, and calculation, while the second names the non-present future of erratic open-endedness. In this section, we will elaborate these two notions of the future, as well as their relation, by way of the quasi-concept of *différance*.

Différance, as is well-known, seeks to co-articulate both the movement of differentiation that characterizes any mark or 'sign' in an instituted system of referral, and the inescapable deferral of the mark's self-reference, and hence, its identity and meaning. Difference and deferral (or, as Derrida also says, spacing and temporization)[54] may be shown to necessitate, respectively, the horizonal future of expectation and the non-horizonal future to-come of unforeseeable open-endedness. Let us start with differentiation. Derrida follows Saussure in the claim that marks or elements, linguistic or other, can achieve stability of meaning only by differing from other marks. Marks must take the detour through all other marks in order to achieve a minimal self-reference. These other marks thus form a necessary context for a mark's meaning. (Here, Derrida is close to much recent analytic philosophy of language that emphasizes the holistic contextuality of

[53] Derrida (1994, p. 167).
[54] Derrida (1982); Derrida (2005, p. 34ff.).

meaning.[55]) If contexts co-determine meaning, a mark may be expected to carry within itself, to drag along like a *sillage*, the history of previous contexts of use. If these contexts, and thus the differential relations, are relevantly similar, a mark may achieve the 'minimal' stability of meaning needed for communication. This history, however, not only relates us to the past, but also the future. For it forms the projected horizon of intelligibility against which we will have to read, and seek to understand, new occurrences of marks.[56] (We have already seen that Derrida also complicates the commonality, and thus the 'we', of this field of intelligibility.) Without this 'background' of pre-comprehension, this contextual history projected as a frame of reference, no meaning could arise. (This is the hermeneutic circle and the 'fore-having' that Heidegger emphasized in *Being and Time*, what Gadamer then elaborated as inevitable 'pre-judices' [*Vor-urteile*] in *Truth and Method*, and what Husserl called the lifeworld background, the *Lebenswelt*, elaborated further by Habermas under the same name in his *Theory of Communicative Action* as the taken-for-granted assumptions without which no understanding could be achieved.[57]) The projected horizon thus acts as a limit that allows us, at least provisionally, to distinguish, at the level of what Saussure would have called the signifier, a meaning-carrying (morphemic or phonemic) mark, and, at the level of the signified, sense and non-sense.

But *différance*, by way of deferral, also relates us to the future to come beyond horizons. This future shows the fulfilment of intended horizons to be impossible, thus rendering horizons both divided and interminable. As seen, a mark can establish its minimal identity or meaning

[55] To my knowledge, the best rapprochement in this area is in Bertram (2002), (2006).

[56] Cf. the passage at Derrida 2002a: 94, where Derrida puts the point carefully (in view of the fact that his thought may be said to revolve around precisely the impossibility he names here): "[I]t is almost impossible to think the absence of a horizon of expectation".

[57] For a clear treatment of this topos in particular in philosophical hermeneutics, see Odenstedt (2006). For Habermas see in particular volume two of his *Theory of Communicative Action* and the overview he provides in Habermas (2000).

only in relation to other marks in a context. The deferral aspect of *différance* now points to the unboundedness and final indeterminability of contexts, and thus to what we may call the infinitization of the elements (which thus can hardly be said to still form a 'set'). Given that contexts themselves change with every new use (every iteration) of a mark (and indeed, already between sender and receiver), the latter cannot ever be finally and exhaustively determined. This is one of the crucial points on which Derrida departs from Saussure, who had distinguished between a structure made up of a finite set of elements called *la langue* ('language') and the empirical and infinite instantiations made possible by the structure (what Saussure calls *la parole*, 'speech'). In response Derrida notes the circularity that lies in recognizing that historically, speech would have to come first although even then it would have to be made possible by the structure of language. Beyond Saussure, Derrida draws from this circularity a conclusion that motivates the introduction of différance as a kind of beginning before the beginning, a non-present non-origin, a production of differences prior to their organization into a structure and its empirical use:

> Therefore, one has to admit, before any dissociation between language and speech, code and message, etc. (and everything that goes along with such a dissociation) a systematic production of differences, a différance within whose effects one eventually, by abstractions and according to determined motivations, will be able to determine a linguistics of language [*la langue*] and a linguistics of speech [*la parole*], etc.[58]

The distinction between a transcendental (perhaps even "ahistoric", as Derrida says in the text) structure and the history of its empirical uses is thus not illegitimate, especially for methodological and discipline-formative purposes. However, it must be seen to emerge, and be enabled by, logically prior differentiation processes that act, as it were, as the transcendental of

[58] Derrida (1981, p. 28).

the transcendental/empirical divide, hence as what one might call the "ultra-transcendental."[59] On this ultra- or quasi-transcendental level of analysis—a level at which differences and identities are not viewed as (relatively) stable and settled, at which we do not 'abstract' from what continues to undo such stabilization along with the very distinction between structure and use—the elements of the structure are themselves infinite in that their use '*is*' both the structure and its instantiation. On this prior level, every use reconstitutes both the structure and the elements. If contexts are meaning-determining, and there is no structure apart from its use, such that every use re-contextualizes, the notion of structure cannot be used to provide the shifting contexts with a final limit or horizon. Hence, the detour through the universe of other signs mandated by the differentiation requirement is infinite; the detour turns out never to be a 'tour' in the sense of a return 'full circle.'

The infinity in question rules out that the final meaning of a term, its finally definitive context (what Rorty calls a final vocabulary), could be established; a mark exists only by changing, and never 'is' stable, but only in the process of being stabilized. Such vintage Derridian terms as 'trace', 'spectre', the prefix 'quasi-' and the many locutions of the form 'X without X'[60] are meant to capture this condition between presence and absence, between past and future. As a result the meaning of marks and terms is deferred to an unforeseeable future that we know will never arrive. If the differing detour is necessary for a mark to function in communication, but the detour never returns to the 'same' mark but rather defers the mark's self-reference, we can say that the deferral to an open-ended future to-come divides the mark from

[59] Derrida (1976, p. 61). Derrida uses this word in *Of Grammatology* just before introducing différance of which he says that, as non-present non-origin, there cannot be a science of it. By contrast: "Of course, the positive *sciences* of signification can only describe the work and the *fact* of différance, the determined differences and the determined presences that they make possible" (1976, p. 63).
[60] See e.g. Derrida (1997, p. 47, 81).

itself. It is worth emphasizing at this point that this division, the exposure to an open future, is not an accident befalling an essential stability. Rather, the detour or never-ending passage through the open future is a necessary condition of a mark's ability to relate to itself and to others. Not only is deferral always possible, then; rather, in conjunction with the differentiation processes we mentioned, it is a necessary (though not sufficient) condition of meaning. Only this openness to new contexts permits a mark to relate itself to other marks and thus to acquire meaningful identity.

Hence, the meaning effects of marks are made possible by the conflictual relation of differentiation and deferral, that is, by projections of contextual horizons and by non-horizonal, unforeseeable open-endedness. This is why Derrida often speaks of conditions of possibility as being, at the same time, conditions of impossibility: if meaning is assumed to stay the same across contexts—and there are good reasons for presupposing this idealizing assumption in a theory of meaning[61]—what makes meaning possible (namely, differentiation) also makes it impossible (namely, by way of the infinite deferral in differentiation). And it is this thought of the condition of possibility and impossibility that Derrida links explicitly to aporia, and indeed, to aporias in moral and political concepts.[62] What remains to be done is to demonstrate the significance of this double relation to the future for the aporetics of morals and politics. Can

[61] If speaker and hearer did not even assume that they intended the same meaning, it is hard to see how understanding could be reached. This is why Apel and Habermas, for instance, treat this assumption as a "transcendental-pragmatic presupposition" of argumentation, and thus of meaning on an inferential-semanticist account. See Habermas (1990, p. 87), following Robert Alexy (1978). In the "Afterword" to *Limited Inc*, Derrida claims as well that strong assumptions of this sort—for instance, that concept use must be governed by the logic of non-contradiction—are required for meaning. See in particular Derrida (1988, p. 114-30), where Derrida speaks of a "structural idealism" (p. 120) that seems to me to be comparable to, though also different from, Habermas' universal pragmatics and its analysis of inevitable idealizations.

[62] See e.g. Derrida (2002a, p. 353 ff.); Derrida (1996a, p. 82); Derrida (1991, p. 12); Derrida (2005, p. 49).

unconditionality and conditions be understood in terms of the two futures? And if so, how does this double relation to the future generate ethical and political aporias?

5 Conditions and Unconditionality

Already my account of aporias above suggests that, in each case, the conditional is concerned with horizonal limits (the ancient Greek *horizon* indeed meaning 'division' and 'limit'), whereas the unconditional names that which is without limits. Unconditional hospitality, for example, names a radical openness to the other without horizons, limits, expectations and demands for identity. As such an unlimited welcome, were it possible, unconditional hospitality would be an openness to the other as to the future, to what is to come, to any event as *arrivant* (as happening, arriving, incoming). Similarly, the 'pure' or unconditional gift would be given "without reciprocity,"[63] without imposing conditions or limits on the gift ("I give to you on condition you do x"), that is, without expecting anything. Further, in "Force of Law" Derrida describes as a "structural" feature of unconditional (even 'undeconstructible') justice that it "has no horizon of expectation (regulative or messianic)."[64] Thus, in Derridian usage, 'unconditional' means 'unlimited', 'incalculable' or 'without horizon of anticipation'.

However, not seeking to anticipate the future, or not attempting to prevent this or that from happening, is manifestly irresponsible.[65] The incalculability of justice, Derrida says, requires us to calculate.[66] The usefulness of thinking aporias in each case in terms of the exposure to a double future, including the horizons projected by rules and conditions, may then also be

[63] Derrida (1991, p. 12).
[64] Derrida (1992a, p. 27).
[65] Derrida (2002a, p. 94).
[66] Derrida (1992a, p. 28).

seen with regard to responsibility and the relation between law and justice. By imposing limits on action, law seeks to regulate conduct, to stabilize behavioural expectations, and to resolve conflicts by anticipating them. This is one of the reasons the law has to be updated in response to new conflict potential, such as that presented by, say, advances in biotechnology, though the retentive and projective updating is always imperfect and incomplete; we could hardly imagine a situation in which no further rewriting was required. Turning to the application of law, a responsible legal decision requires knowledge of the law and of previous applications of the relevant norms—with or without rule of precedent—so as to be able to treat like cases alike. This knowledge has to be projected as a frame singling out the relevant actions, norms, and questions to be asked. However, the application must also be governed by the idea of appropriateness to singular circumstances, despite the fact that neither these circumstances nor the idea of appropriateness can be anticipated, regularized, or justified in advance. Doing justice to the case at hand involves an 'unconditional' moment of an attention to singularity that is precisely not governed by rules, but utterly open to the future.[67]

Similarly, hospitality, on Derrida's telling, requires the absence of futural horizons (and thus a moment of unconditionality), but is also sustained by placing conditions, and thus horizonal limits, on the other to be welcomed. For example, rich countries typically grant non-members residence and work permits according to their training, job experience, language proficiencies, and so on. These criteria thus act as conditions placed on the welcome extended to the foreigner, as a horizon projected so as to discriminate the useful immigrant from the one not so likely to strengthen the sovereign and his market power in international competition. Despite these obviously economic motives, however, one may wonder whether sovereignty, and thus the

[67] Cf. Fritsch (2010).

power of political hospitality, the mastery of the host, could be sustained in the absence of all conditions.

With regard to the gift, Derrida claims that any intention on the part of the donor, without which our pre-comprehension of what a gift means does not recognize a gift, projects a horizon of expectation. In fact, he argues in what appears at first as a dogmatic premise, that the intending subject always expects a return on its investment,[68] even if merely symbolic and even if the return comes, as it were, from the donor herself rather than from the recipient. For an intending donor would invariably congratulate herself for her generosity, thus re-enclosing any gift in a circular return. Such self-congratulation, this giving back to oneself in memory, could take place even unconsciously, so that the pure gift, if it were possible, would require an even more radical forgetting. This is how the turn to an ontological level of analysis, in this case to Heidegger's non-subjective forgetting of being itself (*Seinsvergessenheit*), is motivated in Derrida's *Donner le temps*.[69] For Heidegger's account of the self-withdrawal or 'absenting' of being in its very presenting and giving itself ('*es gibt*'), radicalized perhaps in the Derridian logic of the trace to which he here refers,[70] references a gift invulnerable to unconscious self-congratulation.

As the example of *Given Time* suggests, then, the absence of a horizon of expectation, the purity or unconditionality that Derrida insists on in his various analyses of moral and political practices, can only be justified by ontological (or rather, quasi-ontological or quasi-transcendental) arguments concerning the trace and *différance* as spatial differentiation and postponing temporalization. If an intentional subject can (and as we will see, must) give purely or unconditionally, it is only because it is itself a recipient of a prior ontological gift, the gift of a

[68] Derrida (1991, p. 11, 101).
[69] Derrida (1991, p. 16ff.).
[70] Derrida (1991, p. 17).

time (hence the title of the book) and of a world within which alone the differential trace-structure we call meaning and intentionality can arise. An agent can give to another in part because she receives what she cannot ever own or control. As a result—this is the reason missing from Patton's account, discussed above—she also always must give what she does not have (for example, time not at her disposal, as is the case with Madame de Maintenon discussed in Derrida's epigraph to the book[71]). And she must give to the other without being able to anticipate what will become of her gift, that is, by disowning it and delivering it over to the other, to a time beyond hers. This is why Derrida can then arrive at an aporetic conclusion:

> One must opt *for* the gift, for generosity, for noble expenditure, for a practice and a morality of the gift ("one must give") [*Il faut opter* pour *le don, pour la générosité, pour la dépense noble, pour une pratique et une morale du don ("il faut donner")*]… But—because with the gift there is always a "but"—the contrary is also necessary: One must [*il faut*] limit the excess of the gift and of generosity, to limit them by economy, profitability, work, exchange.[72]

Here then we have our aporetic conclusion: we are asked to practice a gift-giving with and without limit, with and without horizons of anticipation, with and without expecting a return. It is undeniable that this double duty is contradictory and thus satisfies what I specified above as the second claim (2) required for an aporetic conclusion, namely, that unconditional openness and conditional limits cannot be reconciled, permit 'no way out', as 'aporia' indicates literally.[73]

But how does the reference, the recollection, of intersubjective, intentional gift-giving to the preceding and exceeding event of being support the first claim (1), the indissociability or co-implication thesis of which we said throughout that the quasi-ontological infrastructures would be needed for them? The support consists in the fact that the constitution of meaning and worldhood in *différance* requires that a subject, for example an intending donor or welcoming host, projects

[71] Derrida (1991, p. 1).
[72] Derrida (1991, p. 62; transl. modified); French original (p. 85-6).
[73] Derrida (1993, p. 8).

horizons while also committing itself to the indefinite and infinite deferral of meaning. *Différance* commits the subject to projecting horizons of anticipation on pain of the inability to distinguish sense from nonsense, coherent talk from a *non sequitur*, and so on. In fact, the horizon a subject casts into the future with regard to its own identity and its possibilities for action must anticipate the re-establishment of its identity, its continuing survival or 'living on.'[74] The very fact that a self-relation, for a linguistic mark or for an agent's personal identity, is never given in advance but only to be had by relating to the other-than-self, demands that the self seeks to come back to itself. In many, notably scientific discourses, participants attempt to control the dissemination of meaning by explicitly stipulating rules on use, such as definitions, so as to project a limiting horizon that permits a mark to be repeated in different, meaning-co-constituting contexts without losing its identity and comprehensibility. This finds an analogue in terms of personal identity, for it demands of a subject that it define itself against, but in relating itself to, the other, that is, by limiting off the other from the same so as to re-establish itself anew in each context.

This explains what I called the otherwise dogmatic premise in *Given Time*, where Derrida supposes that a subject must seek "through the gesture of the gift to constitute its unity and, precisely, to get its own identity recognized so that that identity comes back to it."[75] For an "identifiable, bordered, posed subject…never gives anything without calculating, consciously and unconsciously, its re-appropriation, its exchange, or its circular return"; "a certain capitalization" of economy and work thus being "the very definition of the subject."[76] If giving requires an intentional subject, this subject cannot give without also calculating a good return, without opting

[74] Derrida (1979).
[75] Derrida (1991, p. 11).
[76] Derrida (1991, p. 101).

for ‘profitability, economy, and work’, thus turning every gift into a ‘circular exchange’. In the discussion of hospitality, we recognized this subjective, horizonal requirement by way of the need of the host to remain host: if the host opened itself completely and gave away everything to the other, she could not remain owner of the premises that alone allow her to sustain the hospitable practice. In the discussion of law, the need to seek to preserve identity is discussed most obviously in relation to Walter Benjamin’s notion of the ‘law-conserving power’ (*rechtserhaltende Gewalt*) that, Derrida agrees, all legal systems require: in applying its rules and taking precedent into account, a legal order maintains its identity as this legal order, an identity that is not simply given in advance and that does not subsist over time independently of consistent, coherent applications.[77] In relation to democracy, the identity-requirement and its concomitant conditions reveals itself in the collective sovereign power, the will of the people, to control a territory, its border and membership. Indeed, in *Rogues* Derrida associates freedom and sovereignty with the figure of the ‘wheel’ turning around itself. In the example of the suspended Algerian elections, we saw this requirement at work in the fact that the democratic elections were suspended precisely in order to save democracy, to maintain its identity and allow it to pass through the political turbulence in coming back to itself as a democracy.

But this return to oneself can of course never be guaranteed; there is no life without the risk of losing oneself. One never even quite comes back to oneself as the same. The “free wheel” of individual or collective sovereignty “does not work or turn just right [*qui ne tourne pas rond*].”[78] We may intimate that Algerian democracy will not have been the same as before, and that every guest alters the host. With regard to law, every application of a rule also sets a new precedent for future applications, and thus alters and re-founds the rule, at times imperceptibly, at

[77] Derrida (1992a, p. 31ff.).
[78] Derrida (2005: 7).

others dramatically. While law-making must take coherence with existing law into account (e.g, by way of a constitution that regulates law-making itself, procedurally and substantively), its application must also suspend and re-make existing law so as to do justice to incalculable singularity. That is why Derrida concludes his discussion of Benjamin's distinction between law-making and law-conserving violence by arguing that their contamination, which he thinks Benjamin deplores,[79] is rendered inevitable by the infrastructural "iterability [that] inscribes preservation in the essential structure of foundation."[80] If law must thus open itself to erratic open-endedness while also seeking to preserve its identity, it is because differential iterability, the repeatability of marks and elements across inevitably different and yet meaning-co-constituting contexts, commits law to its own conservation and open-ended reconstitution.

The general structure at work here mandates, as we said, that an identity—of a legal or political order as well as of an individual host—seeks to return to itself precisely because it is not given once and for all but can only be won in the confrontation with its other. The other must thus both be welcomed and cordoned off, invited in and controlled.[81] For the sake of identity, meaning and agency, the confrontation with alterity must be risked despite its incalculability, its exposure to an open-ended and unpredictable future. In inevitably accepting the risk of welcoming the other, the self also commits itself to a future without expectation of return, thereby making a pure gift of itself. The detour through *différance* tells us why this is so, for it gives to, gives place and time to, the identity of selves and institutions by opening them to the future.

[79] In Fritsch (2005, chapter 3), I attempted a different reading of Benjamin in this regard.
[80] Derrida (1992a, p. 43).
[81] Derrida (1994, p. 141).

Read against this infrastructural background, then, hospitality and gift-giving, as well as justice and sovereignty, name aporetic concepts that can never manifest themselves as such. We know in advance that claims such as 'this is a true gift' or 'this is hospitable' or 'this is just' are false, or, if that sounds too unforgiving, at least not quite right, not quite honest, truthful, generous, or just.[82] Divided from themselves as any mark, they remain to come, without thereby arresting or deferring their urgent call preceding the subject.[83] In each case, it appears at first sight that the aporia can be read off our pre-comprehension of the meaning of the terms in question, be it in a phenomenological or genealogical account of our practices, be it by an examination in the style of ordinary language philosophy. Given that *différance* is 'nothing' in itself, without the marks and subjects that it relates to one another, it is not the same in each context in which it can only be revealed to be at work in its effects, or better, in its traces without cause or origin.[84] Hence, deconstructive analysis must understand these contexts on their own terms, contexts and terms to which it must hand itself over and entrust itself; it must describe phenomena and practices with which it deals without already presupposing that they are formed by, or deducible from, the infrastructures. This is what it means to say that *différance* is not a master concept,[85] and why it may be misleading to repeat the term so often, and indeed in the role of *explanans*. This *quasi*-transcendental status—the status of an enabling condition that can never be, as Kant had hoped in his innovation of transcendental argumentation, 'isolated' from what it enables, and thus remains itself enabled by, and only ever to be discovered in, what it enables—this status might tell us why the infrastructures come to be mentioned not at the beginning, and then only gradually, in Derrida's later texts, and why it is tempting to understand these texts

[82] Derrida (1992a, p. 10).
[83] Derrida (2005, p. 84).
[84] Derrida (1982, p. 11, p. 12, p. 16).
[85] Derrida (1982, p. 7, p. 27).

without reference to an infrastructural level at all. However, it is the not so much 'underlying' as always to be re-asserted, and thus re-named, structure of *différance* that leads to the aporicity of moral and political concepts—that is, their indissociability or mutual implication as well as their irreconcilability. In each case, in each context and with regard to different practices, *différance* asserts 'itself' anew in such a way as to reveal conditions and unconditionality as equally necessary, necessity here taken in a quasi-transcendental as well as normative sense. It is this double relation, this intertwining of the quasi-transcendental and the ethical, that will lead to my conclusion.

6 The quasi-transcendental and the ethical

In emphasizing the role of the infrastructures in the generation of aporia, making them appear to be master concepts or causes is a risk rivalled by inviting a perhaps even more serious objection. The objection would argue that the very explanation of normative practices and goals by ontological or metaphysical arguments purporting to describe what in fact is necessarily the case—or worse, the treatment of such practices as ontologically analyzable events—commits a version of the naturalistic fallacy. The counter-argument would hold that the constituting reference of normative practices to *différance* only shows that legal practitioners are *in fact* exposed to the open-ended future of dissemination; that hosts can *in fact* never know who they are welcoming; that the donor can *indeed* never control what will become of her gift, and so on. The '*il faut*'—'we must, one must, it is necessary'—that we just referred to so frequently, and that appears so often in Derrida's later, ostensibly moral and political texts, would at best be (quasi-)transcendentally necessary, but not normatively. From the fact that forms of life are made

possible by differential relations that expose them to a double future, the counter-argument goes, it does not follow that they must be committed to projecting horizons of identity, let alone to welcoming an erratic future and the radically undetermined guest who may enter through it.

It should thus come as no surprise that the group of commentators we discussed in a previous section (such as Patton and Caputo) is opposed by another group. The first group accepts Derrida's aporia as a result of accepting the claim to unconditionality in a normative sense, but largely without relating it to the quasi-transcendental infrastructures, so that the worry about the naturalistic fallacy does not appear. The second group stresses the role of the infrastructures in accounting for the aporicity of our practices, but thereby often denies—at times to avoid the naturalistic fallacy, at others to highlight the violence that aporia renders inevitable—that any normativity, in particular the call to be unconditionally open, follows from Derrida's argument.[86] A fair discussion of the important worries of this second group would take us far beyond the space constraints here. Nonetheless, I would like to briefly indicate in conclusion that Derrida explicitly seeks to think the relation between a transcendental argument and normativity in such a way as to give his '*il faut*' a systematically double sense—a duplicity, in fact, that only appears as such if we approach his texts with the fundamentally modern distinction between the 'ought' and the 'is', between culture and nature. A detailed consideration as to whether Derrida's intention, to whose demonstration I thus limit myself here, can be fulfilled, as to whether his argument goes through, will have to wait for another day.

Derrida's basic claim regarding the relation between quasi-transcendental and normative necessity—a claim he calls "the law of the *il faut*"[87]—is that no scientific distance can render an account of the event—for example, Mauss' anthropological account of the gift—merely

[86] See in particular Laclau (1996, p. 77); Hägglund (2008, p. 31; p. 96ff.).
[87] Derrida (1991, p. 62).

constative, merely descriptive, objectively indifferent or neutral.[88] The coming of the event, he argues, requires an affirmation of what I called the double future, an affirmation that goes by different names in his work, from the "yes, yes" in his work on Joyce and elsewhere[89] to the notion of the promise of truth-telling[90] of which he says that it shows the way in which every constative depends on performative acts[91]; from the calling for faith in the other as in oneself[92] to the performative response 'come' ('*viens*'). In glossing "unconditional hospitality", for example, Derrida makes clear that it is, like justice and the gift,[93] another name for the temporal structure of the event:

> One must think the event from the "come [*viens*]", and not the reverse [in other words, we should not derive the performative response from a supposedly constative and prior description]. "Come" is said to the other, to others who are not yet defined as persons, subjects, or equals (at least in the sense of calculable equality). Only if there is this "come" can there be an experience of the coming, of the event, of what arrives and therefore of what, because it comes from the other, cannot be anticipated. And there is no horizon of expectation for this messianic prior to messianism. If there were a horizon of expectation, of anticipation, of programmation, there would be neither event nor history… If he/she/it is an absolute arrival, I must not propose a contract or impose any conditions. I must not; and furthermore, by definition, I cannot. Hence, what looks like a morality of hospitality goes well beyond any morality, and certainly beyond any law or politics.[94]

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[88] "No doubt, as with every 'il faut,' this law of the 'il faut' is that one must—*il faut*—go beyond [*déborder*] constatation and prescribe… One cannot be content to speak of the gift and to describe the gift without giving and without saying *one must* give [*qu'il faut donner*], without giving by saying one must give, without giving to think that one must give but a thinking that would not consist merely in thinking but in doing what is called giving, a thinking that would call upon one to give in the proper sense, that is, to do more than call upon one to give in the proper sense of the word, but to give beyond the call, beyond the mere word." Derrida (1991: 62), French original (p. 85).
[89] "Ulysses Gramaphone" in Derrida (1992d) and "A Number of Yes" in Derrida 2008; cf. Derrida in Caputo (1997, p. 27).
[90] Derrida (1996a, p. 82f.); Derrida (1997, p. 214, p. 218, p. 236, p. 249).
[91] Derrida (1992a, p. 27).
[92] Derrida (1998).
[93] Derrida (2005, p. 148).
[94] Derrida (2002a, p. 94-5).

I cannot do otherwise than in fact be exposed, unconditionally, to what will happen—this is one of the reasons Derrida's hospitality 'goes well beyond any morality'—and yet, I also must not do otherwise. The fact that something or someone is necessarily exposed does not mean that this exposure, this passivity, is not also demanded in a normative sense. The 'must' does not only repeat the inability of the 'cannot' but adds to it the sense of a performative welcoming of the event despite its threat of change, alterity, and death: I must say 'come' to it without imposing conditions, I must desire it to come and affirm it in its very unpredictability. The reason for this is, in this context, best approached by referencing the account of *différance* above: if subjectivity, like every form of life, is structured (given) by *différance*, then it must, for the sake of its own identity, relate both to itself and to the other. Life must seek to return to itself by keeping the other at bay, but it must also welcome the other as that which permits the self to define itself.[95] If its identity is never simply given but given as a gift of time (double genitive), then life forms must take responsibility for maintaining their identity, and that means affirming their own in its constitutively necessary and unpredictable exposure to the other.

The other to be welcomed here could be any event, good or bad—"left to itself, justice is very close to the bad, even the worst"[96]—but for human beings also necessarily involves other people (though 'not yet defined as persons, subjects, or calculable equals', definitions that take place at other levels, for example juridical and political, just as the establishment of a structural linguistics, the one that distinguishes between structure and use, occurs at a level one step removed from différance). The meaning-co-constituting context in which the living—Derrida does not wish to limit inheritance to human beings—must find themselves always already thrown

[95] Derrida (1994, p. 141).
[96] Derrida (1992a, p. 28).

inevitably involves a non-anonymous heritage received from ancestors in their singularity.[97] The context-requirement on meaning and identity translates here into an accepting reception of a gift—including the gift of pre-comprehension, as we saw, as well as of a language whose trace "commits" us to speak to the other[98]—that has always already obligated us:

> Only a finite being inherits, and his finitude obliges him. It obliges him to receive what is larger and older and more powerful and more durable than he...The concept of responsibility has no sense at all outside of an experience of inheritance...One is responsible before what comes before one but also before what is to come, and therefore before oneself.[99]

More simply put: "An inheritance is not simply a good I receive; it is an assignation of fidelity, an injunction to responsibility,"[100] a responsibility of which Derrida also says that it is "at the root of all ulterior responsibilities (moral, juridical, political)."[101] Affirming oneself demands affirming the others already on the scene (but also still in-coming), without whom we cannot be

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[97] Derrida (2002b, p. 86f.).

[98] Here is one of the passages in which Derrida says most clearly that "the trace or *différance*" implies an injunction, so that the "*il faut*" is both quasi-transcendental and normative: "Language has begun without us, in us, before us. This is what theology calls God, and it is necessary, it will have been necessary, to speak. This "it is necessary" is *at once* the trace of an undeniable necessity…*and* of a past injunction… Order or promise, this injunction commits (me), in a way that is rigorously asymmetrical, even before I myself have been able to say *I*, and to sign—in order to reappropriate it for myself, to restore the symmetry—such a *provocation*. This in no way mitigates responsibility, on the contrary. There would be no responsibility without this forecoming [*prévenance*] of the trace, and if autonomy were first or absolute. Autonomy itself would not be possible, nor respect for the law (the sole 'cause' of this respect) in the strictly Kantian sense of these words" (Derrida 2008, p. 166; Derrida's emphases; French original p. 561).

[99] Derrida (2004, p. 5-6). That is why, for Derrida, seeking to achieve scientific neutrality in a meta-language that would speak merely constatively of its object risks denying the fact that our discourses, including scientific ones, are always indebted (*endetté*) to that to which they are responding, and already from the start a part of the discourses they are commenting on (Derrida 1991, p. 62; cf. Derrida 1996b, p. 67f.). This also the reason why, for example, Marcel Mauss' *The Gift* cannot just describe the gift, but must call for it, and why Derrida prefers to advance his theses in the style of a commentary on others that does not hide its indebtedness (Derrida 1991, p. 100).

[100] Derrida (2002b, p. 86f.).

[101] Derrida (1995, p. 276).

who we are becoming. In *The Politics of Friendship*, Derrida thinks this affirmation as the "anterior affirmation of being-together in allocution"[102] and as a non-chosen friendship or *aimance* that, as the "law of originary sociability,"[103] entails a "minimum of friendship or consent."[104] In response to Laclau's account of the relevance of deconstruction to political analysis, an account from which normativity is notably absent, Derrida in fact insists that this affirmation commits us to a "promise of non-violence" in relation to the other to be welcomed: the friendship in question, while never *de facto* without violence, still commits us to "a friendship, what I sometimes call an *aimance*, that excludes violence, a non-appropriative relation to the other that occurs without violence and on the basis of which all violence detaches itself and is determined."[105]

Surely the normativity here—Derrida does not avoid the adjective 'normative' [*normative*] though he more frequently speaks of performativity[106]—is rather thin in the absence of a normatively contentful definition of violence.[107] If 'morality' means the derivation, or at least

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[102] Derrida (1997, p. 249).
[103] Derrida (1997, p. 231).
[104] Derrida 1997, p. 214).
[105] Derrida (1996a, p. 83). For more on the difference between Derrida's friendship and Mouffe's antagonism in particular, see Fritsch (2008).
[106] Derrida (1991, p. 62), French original (p. 85); Derrida (1993, p. 64).
[107] "No politics, no ethics, and no law can be, as it were, *deduced* from this thought [of the *khôra* as the spacing of the coming event]. To be sure, nothing can be *done* [*faire*] with it. And so one would have nothing to do with it. But should we then conclude that this thought leaves no trace on what is to be done—for example in the politics, the ethics, or the law to come?" (Derrida 2005, p. xv). Derrida then goes on to specify that the trace this thought of unconditionality leaves on the politics to come is one of a kind of motivating hope without redemption. This should be linked to what he says about the justice that motivates the perfectibility of law (Derrida 1992a, p. 27f.) despite the inevitability of violence. A well-known passage in *Of Grammatology* distinguishes three levels of violence (Derrida 1976, p. 112 ff.) without thereby relieving us of the difficulty of deciding for "the lesser violence" (Derrida 1978, p. 313) in each context. Space constraints do not permit to respond to the debates around what the lesser violence might mean here; see Hägglund's (2008, p. 231-2) and Haddad's (2008) critique of my earlier work and that of John Caputo and Richard Beardsworth. Suffice it to say that for Derrida, as the passage cited

the stipulation, of rules or norms with determinable content, then this is another reason the deconstructive performativity goes well beyond it—though the claim that language commits speakers to the promise to speak the truth comes rather close to a constitutive rule. Perhaps a more urgent question is whether we can 'derive' a duty to non-violence from the necessity to relate differentially to others, that is, both divisively and welcomingly. As I said, we will have to leave the full consideration of this important question for another day. But we should note that it is not a question of deriving normativity from a logically prior ontology, for the point is precisely to think being and worldhood as intrinsically normative. For the same reason, it is also not just a question of defining one's identity, for on this account, identity is only thinkable within a world, including an inherited lifeworld that must be assumed and made one's own. The commitment to an open future is then seen as part and parcel of the emergence and maintenance of a world—a world without which no meaningful possibilities for action, for asking questions and making constative statements, could present themselves to an agent. As Heidegger argued and Derrida agrees—with some reservations spelled out most clearly in Derrida's *Aporias: dying-awaiting one another at the 'limits of truth'*—"being as being-possible" involves an "irreducible prescriptivity,"[108] for being as in each case mine has to be won in the confrontation with an open future. The singularity of identity is not simply given, but has to be assumed as a task.[109]

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in the text makes clear, the inevitability of *de facto* violence does not rule out the normativity of the "promise of nonviolence" Derrida (1996a, p. 83).

[108] Derrida (1993, p. 64).

[109] In *Being and Time* Heidegger anticipates the aporetic structure of selfhood: "The Self, which as such has to lay the basis for itself, can *never* get that basis into its power; and yet, as existing, it must take over Being-a-basis" (Heidegger 1962, p. 330, German original, p. 284; Heidegger's emphasis). For a further exploration of the Heideggerian roots of Derrida's notion of responsibility, see Raffoul (2010). For a lucid reading of Derrida's *Aporias*, notably around the contested relation between death and an open future, see Beardsworth (1996, chapter 3).

We may state the same point by recalling what a (quasi-)transcendental argument accomplishes. We would misunderstand the type of transcendental argument at issue if we thought that, once the quasi-transcendental conditions of worldhood and agency have been argued for, we then still have to derive its normative implications, if any. The argument does not seek to show that the world in which we live is the only logically possible world—perhaps we can think, without contradiction, a world without responsibility and normativity. Rather, the argument wishes to establish that the world in which we live is the only one that is, practically speaking, accessible to us, as its transcendental features make us who we are and allow us to pursue the practices that make us who we are. The point is thus to show that our practices are "reflectively stable"[110]: reflectively distancing us from them in thinking about them gives us no reason to want to change the fact that we have always already said 'yes' to them. For instance, if the truth-telling promise enables linguistic practices of communication and the constitution of speaking agents—as Habermas and Apel have argued—realizing that the mere fact of using language constrains us into making the promise gives us no reason to stop speaking or otherwise to avoid the promise: for giving up the practice gives up who we are, including our agential abilities. In this sense, as Cassam suggests, at least "self-directed" transcendental arguments not only reveal necessary conditions of our practices, but show "that we are justified in operating the way we actually operate."[111] They show not only the way of the world; they show that it is desirable despite its inescapability.

The problem with applying the naturalistic fallacy not simply to the nature-culture divide, but to this kind of a transcendental argument is that it assumes an agent could exist in every

[110] I borrow this phrase from Joseph Heath's reconstruction of transcendental argumentation in general and Habermas' in particular in Heath (2001, p. 8, p. 309ff); see also Heath (2008, p. 212ff.) and Heath (2003).
[111] Cassam (1999, p. 40).

logically possible world. The idea that I do not have to be hospitable just because *différance* has always already opened up my self-relation to the other, that I can choose not to give in to the unconditional demand, presupposes a worldless, contextless sovereign subject that Derrida has always sought to deconstruct. Rejecting the normativity of the demand may seek to preserve the sovereignty of the subject that has always already been opened by *différance* and *thus* claimed by an 'anoriginal' and indeed 'inhuman' address that calls the 'subject' into being in the first place.[112]

[112] Derrida (1992c, p. 118); Derrida (1995, p. 276); Derrida (2008, p. 166).

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