

Levinas, Euthanasia, and the Duality of the Moral Subject

Zachary Lapointe

ID: 40127588

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Abstract

This MRP is concerned with the Levinasian conception of the subject as moral agent and its consequences for the bioethical problem of euthanasia. The goal is to show how the ineliminable tension in Levinas' philosophy between the singularity of the Other and the demands of the third party are exacerbated in matters concerning how to responsibly approach the terminally ill. Since the appeal of singularity is encountered in the face to face, generality is epistemologically restricted to secondhand accounts of this appeal. It is the individual that is situated between the demands of the third party and the singular Other which means we cannot consider legislation and medical policy as the be all end all way to responsibly approach euthanasia. Euthanasia policy should be mindful of the ineliminability of this tension and instead seek to offer avenues for individuals to engage with euthanasia responsibly should they feel compelled to seek out that option. Of course, no amount of mindfulness could transcend the necessity of this tension, but we can at least work to mitigate the harm social and medical policies cause to individuals, families, and physicians who are put in the unfortunate position of needing to consider euthanasia. Finally, we must also remember that due to the nature of this tension being ineliminable and due to Levinas situating the moral agent as irreplaceable, we can never rule out the possibility of acting against or in spite of medical/legal policy in response to a perceived failure of those generalities to properly accommodate the singular Other. Concretely this means that I may feel morally obligated to engage in euthanasia practices even if it is not legal, even if it goes against my responsibility to the third party, for the sake of fulfilling my responsibility to those I encounter.

Introduction

As the abstract suggest, this MRP is concerned with how to confront the issue of euthanasia from the point of view of a Levinasian ethic. If I am irreplaceable in my responsibility to those I encounter, but am also accountable to the third party, how are we to make sense of our duty to care for those who are dying and/or suffering immensely without losing sight of this tension? The intention here is not to argue for the superiority of the Levinasian framework over more traditional ones. Instead, I argue that what I present here should be included as supplemental to the current literature. What I provide offers some guidelines for evaluating public policy concerning euthanasia but also hopes to act as a morally edifying discourse that sheds light on the nature of exceptions and my responsibility as irreplaceable in making judgement calls when current policy is unable to fulfill its purpose. However, as those versed in Levinas will readily admit, any inclusion of his moral phenomenology requires a significant amount of background work before properly addressing a current issue. This is because of Levinas' radical contention with many seemingly obvious presuppositions that orient much of the western philosophical tradition.

A straightforward example would be Levinas' consideration of ethics to be first philosophy¹. This means that fields like epistemology, metaphysics, and ontology, are made possible and contextualized first by our ethical relationships. Naturally, what Levinas means by ethics will itself also differ from more traditional conceptions. Ethics for Levinas is the passive response to the authority of the Other which situates and establishes the first-person perspective as responsible agent. Rather than strictly being the adherence to a set of rules, ethics is that which constitutes the moral subject through the encounter of the Other charging me with their care. Levinas argues this is required in order to experience the world as being shared rather than an

extension of my ego. Only once this is done is it possible to be concerned with objectivity and truth, including moral truth or rightness, and consequently, the moral permissibility of euthanasia. I am aware that this definition leaves much to be desired, but while this will be the major focus of Sections I and II, for the purposes of the introduction it will have to do. Section III will get into some of the medical terminology that accompanies the issue of euthanasia and engage with a previous attempt to introduce Levinas into the issue of euthanasia.

The purpose of section IV is to provide a real-world example where an individual felt himself compelled to perform non-voluntary euthanasia as a fulfillment of his responsibility to his daughter. This does not mean we need to condone these kinds of actions. Instead, this example and cases like it represent a break with legislation and institution. They mark the individual as the locus between the institution's/general rule's judgement and the exceptional condition that accompanies the face to face.

Section V will discuss one instance of what Levinasian inspired medical/legal policy on euthanasia could look like. I will propose that policy sensitive to the tension I am describing would have a general ban on euthanasia with protections for doctors who make exceptions to this general ban so long as they follow safeguard criteria to reduce the likelihood of abuse.

Section I: Ethics and Subjectivity

As was briefly mentioned in the introduction, Levinas considers ethics to be first philosophy. This means it is our obligations to others that somehow determines the manner in which we engage with other philosophical disciplines like epistemology. It was also mentioned that what Levinas calls ethics differs from the more usual understanding of it being a compilation of rules/obligations that we adhere to with respect to how we are to treat other beings (humans and

otherwise). Ethics for Levinas is that which establishes the subject and situates them in the objective world, a world which is moral from the start. The force of ethics comes from being exposed to other people who bring with them the shock of normativity. This is concretely experienced through having one's being called into question.

a) The Objective World: Part I

Levinas argues that, in isolation, as a human being I am trapped in my own experience or perspective. The world could only ever exist as an extension of my possibilities. The special nature of being called into question is that it challenges the inherent sense of rightness that accompanies my own feelings and drives. There is nothing in the sensation of being hungry that could force me to evaluate the legitimacy of my feeling of hunger. I am hungry, so I look for food and try to eat. But when another person arrives on the scene, Levinas argues that the way I relate to the food I possess is changed. Now what was seen only as a way to satiate myself is now seen to be something that exists in a world that I share with other people. It is not inherently my meal, but something that someone else could eat and may even want to claim as their own. Whether or not my experience of the other person is perceived as threatening or welcoming is not really the issue here either. What is important is that the brute presence of another person is the sufficient condition for me being pulled out of my egoistic immediacy into a world I share with others who have needs that feel just as important to them as my own do to me and, even further, that the immediacy of my perspective is not in itself a sufficient justification for my existence. My own feelings of hunger are no more real than those of others. By eating I deny someone else the possibility to eat what I took and there is nothing about my life that inherently makes it more deserving of food than someone else's. My own existence is arbitrary and often violent to others.² The response to having my being called into question is to try and justify

myself as a way of overcoming the arbitrariness of my own existence. I worked for this meal while you were lazily napping. However, justifications need validation, and this causes another problem. It would not be possible, argues Levinas for an individual to call their own being or experiences into question in a legitimate fashion using any tools at their disposal (be it sense perception or rational capacity, etc.) because to legitimately be called into questions requires that I answer to an authority that can judge the merit of my response.³ I cannot present my own justification to myself without falling into a solipsistic contradiction because justifications are inherently normative. Only another human being has the power to consecrate my existence. Other people are then the gateway to the objective world but are also judge over me.

b) Impossibility of Murder

Alongside calling me into question, the normative shock of others also commands me not to kill them. This is not to say they submit a verbal request, but that their ethical status as Other is grounded on the command not to murder. Fritsch writes that:

The force with which the other confronts the murderer is not just a measurable, physical force but also something other than force; otherwise, the murder victim would be a mere thing, and a thing can be destroyed but not murdered. What is other than force in the other is her very alterity...⁴

To go even further, Levinas argues that this radical otherness, the source of normativity, presented as ethical resistance attests to the ethical impossibility of murder.⁵ Annihilating a body does not rid me of the normative shock the other person provides nor does it free me from their judging gaze.⁶ The intent with murder is to eliminate the Other, to erase their existence, but since their alterity evades my grasp, the desire to murder is ethically contradictory. The Other persists even after death as moral authority and radical difference.⁷ While this will be expanded on in

Section II and III, for now, what is important to take away is that the normative shock the Other introduces is grounded on the command not to kill them and that the desire for murder cannot ever fulfill itself.

c) Irreplaceability and Substitution

Next, the command not to kill the Other is not solely a negative command (in the sense of telling us what not to do). To be responsible to the Other also involves being charged with their care, charged to let, and help them live. The presence of the one who judges me is not just that of epistemological authority (in the sense that they consecrate my knowledge), but also ethical authority. I see this most concretely in my confrontations with a newborn child. Even though it does not speak directly to me, it charges me with taking care of it even at the expense of my own welfare if necessary. Its vulnerability as a completely dependent being is its power over me.

Levinas calls this substitution where my own needs come second to the needs of others not out of some deep sense of empathy that I may be lucky to have but as an unshakeable consequence of being exposed to the normative shock of their presence.⁸ Through this shock, their needs become and are revealed to have always already been my concern.⁹ This is not to say everyone will always take proper care of others. Instead, Levinas is claiming that even the decision to harm the other person recognizes and defies the appeal not to. The normative context another person introduces makes possible both hospitality and violence because every violent act violates the normative context which is precisely what makes it violent.

Also, Levinas says that the experience of this shock calls me to responsibility irreplaceably.

What this means is that I cannot avoid the normative context the other provides but can only respond to it. Even the response of ignoring the needs of others is unable to evade the necessity

of providing a response.¹⁰ I always experience the shock of others as being first on the scene, irreplaceable in my position as responsible agent.¹¹

d) The Objective World: Part II

Being constituted intersubjectively also has epistemological consequences. In order to have intentional content (to be able to identify and re-identify something as that thing) I must be able to know that what I experience is not an illusion. I must be able to identify something as it is or could be for everyone.¹² Yet without being called into question, I would not have a legitimate ground through which to doubt my senses/intuitions. I would not even be able to have the idea of myself as subject, as a being present in the world, since it is required that I am able to separate myself from the world enough to recognize it as qualitatively different from me. And this only occurs through the normative shock of absolute difference which rips me out of the immediacy of my perspective and demands me to justify the naïve and arbitrary nature of my existence. Levinas call this the birth of the subject because the first response of the intersubjective being is to say (both metaphorically and literally), “here I am.”¹³

e) The Other as Ungraspable

To go even further, Levinas argues that it is impossible to ever have an adequate idea of other people. As constitutive of objectivity, and as constitutively Other, the other person is located in an “immemorial past” that will always resist my comprehension.¹⁴ In the very act of positing the existence of qualitatively other people, I would already be within the objective realm. This has to do with the nature of conceptualization which reaches out into the world and grasps things. Once I have a proper concept of something, I no longer need that specific experience of the thing. Assuming I can develop a proper concept of a tree, that concept becomes something I can “hold onto” without the need of constantly referring back to the specific trees in my backyard that

originally helped me develop the concept. The point I am trying to convey here is that a concept can come to replace the experience of the object once it has been sufficiently developed. But Levinas argues that other people are never fully graspable conceptually because they always exceed their own concept. While he uses words like infinity to describe the Other, what Levinas is trying to convey is actually quite straightforward. Others cannot be properly conceptualized because their identity always exists prior to the ability to conceive of them. If Levinas wants to argue that the shock of the Other is sufficient to introduce the objective world, then that encounter must involve the exposure to a difference so radical that it could never have been posited by me on my own. This makes the condition for the possibility of objectivity the exposure to the other's radical otherness. This is why Levinas says questions like, "who are you?" already presuppose the Other as the one who receives the question.

But the question that asks about the quiddity is put to someone. He who is to respond has long already *presented* himself, responding thus to a question prior to every question in search of quiddities. In fact the "who is it?" is not a question and is not satisfied by a knowing. He to whom the question is put *has already presented himself*, without being a content. He has presented himself as a face. The face is not a modality of quiddity, an answer to a question, but the correlative of what is prior to every question.¹⁵

Even before I can even have an idea of another person, I encounter them as radical otherness, but still as a "you". This is what Levinas meant by the term "immemorial past" which I mentioned above. Since the other is phenomenologically encountered prior to my ability to conceptualize them, this also means that any attempts to segregate or determine which human beings have this ethical 'otherness' already arrive too late on the scene to make that determination. Every instance of singularity brings with it the normative context and moral authority.¹⁶ None can be replaced,

and I am responsible to and for each and every one of them (managing the weight and logistics of responsibility to a plurality of people is the focus of the next section)

To summarize, the subject emerges as a response to having its arbitrary and violent nature called into question by the presence of other people. This means that ethics precedes and makes possible fields like epistemology which act as concrete responses to being called into question. Yet this comes at the already assumed cost of being accountable to and responsible for the Other's life. Other people cannot ever be fully known because their personhood exists before knowledge is possible as the one to whom I am responsible for and accountable to. Finally, this normative condition accompanies every unique individual since their status as persons is instantiated prior to conceptualization and consequently, prior to segregation.

Section II: Concretization of Responsibility in Justice

The purpose of this section is to transition from the more abstract narrative of responsibility sketched out in Section I to the concretization of that responsibility in our everyday social lives. It seems obvious that we live in a world with many others whom we presume to know some things about even if we grant Levinas' position that the source of their singularity is beyond our grasp. Finally, it is difficult to conceive of responsibility as absolute and directed towards every individual when I am a finite being with limited energy and ability to realize that responsibility properly. Simmons provides an excellent way to conceive of the relationship between the absolute responsibility of section I and the need to live it out concretely which is the current section's focus.¹⁷ He claims that:

...a task is a lived existential challenge that responds to the question, "How, then, should I live?" Alternatively, a framework is a conceptual commitment to a particular set of

metaphysical or ontological or moral truths that function, to some degree, as the narrative that serves as justification for taking up the task in the first place.¹⁸

If we understand section I to be Levinas' attempt at presenting the framework that makes normativity possible, then we can approach this section as presenting the equally important, yet equally reliant, moral task of putting that framework into practice which, as I will now show, requires an engagement with justice and calculation.

a) The Third Party

To help differentiate the framework of responsibility to others from the lived task of acting it out Levinas introduces into the discussion the idea of the third party. Now, while there is some disagreement both in Levinas' own writings as well as commentators on Levinas about what the nature of the third party is, there is some consensus that the third party has the following attributes.

First, the third party refers to the presence of a concrete actual third person, but also represents another side of the normative shock present in the encounter with a single person. The ethical part experienced in Section I of being called into question in a world shared rather than monopolized by me reveals that my existence is scrutable by everyone, not just those I am in proximity with. Morgan explains that:

...the third party is the condition that precipitates the factuality of social life in everyday affairs.¹⁹

The inherent normativity that justifications express appeals to an objectivity beyond the evaluation of just one person. Levinas further clarifies this by saying:

Everything that takes place here “between us” concerns everyone, the face that looks at it places itself in the full light of the public order, even if I draw back from it to seek with the interlocuter the complicity of a private relation and a clandestinity.”²⁰

Any answer I give or action I direct towards one person is always still something that others can weigh in on or have a say about. My interactions with individuals are always therefore, at least in part, the business of everyone else. Second, this also means that my concerns for those I encounter in my life must also extend to the other Others who live and interact with those in my immediate circles. The social life involves being accountable to and responsible for my neighbour as well as my neighbour’s neighbour. The third-party calls into question the exclusivity of this particular person I am engaged with by appealing to all the others who have equal claim to me. Simmons explains this well when he says:

Neighborliness is presented as constitutive of social interaction and, as such, we must realize that not all neighbors are the *same* –even though they are all *equal*.²¹

The exposure to the shock of the specific other person is not only one of extreme exclusivity, but is also a relation situated in, and governed by, a social world that challenges that very exclusivity.

b) Politics: Generality in Tension with Singularity

Yet the difficulty remains as to how I must manage being accountable to every single other person one encounters. Since I am responsible to the Other in their singularity, but also to the third party in justice for all others, how do I manage this without being crushed by its weight while also minimizing harm? Questions about justice, hypocrisy and management come to the forefront.²² Is it wrong if I justify myself differently to each person? Does one person have a greater claim to me than another? Is it fair to care more for my own children than the children of

other people? Politics emerges as the attempt to manage my immeasurable responsibility by establishing concrete institutions/norms that help govern the task of everyday social life in accordance with the framework of responsibility. Morgan explains that:

Once we have to take into consideration a plurality of other persons who need our acknowledgment and assistance, both individually and politically, we will be required to group others in various ways, discriminate levels of need, compare the needs of some against the needs of others, and so forth. Whatever decisions we make or policies or programs or rules we put in place will generalize for groups of recipients and for groups of agents.²³

However, Section I showed other people to be epistemologically ungraspable. Since we cannot ever develop a sufficient concept of others (on account of their radical difference), to make calculations about how to divide responsibility which include the grouping up of people is fundamentally harmful to the very people we are intending to help. Yet this harm is unavoidable because I am absolutely responsible for the singular Other I encounter but am consequently also absolutely responsible for every single other Other. It is important to reiterate that this responsibility is not freely adopted thanks to some kind of good upbringing or positive emotion. The normative shock that accompanies every person in their radical singularity charges me with their care. Yet every attempt to be responsible fails either by misrepresenting, excluding, or harming them. Despite this, Levinas still recognizes that seeking to establish general rules is necessary despite its insufficiency. What we must strive for is to constantly amend and revise laws and norms to mitigate their harm.

c) The Resistance of the Singular

Even if political engagement can become a mode of realizing my individual responsibility, it can never become a replacement for it. I cannot say to the hungry person that their need for food is not my problem anymore because I voted for a new policy which ensures that all will be properly fed, nor can I say to the one suffering at the brink of death that I am not responsible for them because euthanasia is not legal. The instantiation of institutions (even good and just ones) cannot absolve me of my responsibility to singular Others, as this is the very source of the normative. Since the nature of singularity is that it exceeds its own idea and exists in an ‘immemorial past’, even if we assume the instantiation of a perfect law/norm, it will still violate the infinity of that singularity. The tension is therefore not just a matter of failing to rule out every exception or consider some variable better. To think this way is to forget the nature of Levinas’ framework by focusing too much on the existential task.

d) Aporia, Justice, and the Other in Derrida

Up until this point, some readers may still hesitate to accept that the tension I am presenting is actually ineliminable. Derrida, whose own position is inspired by Levinas, offers some very helpful insights about why this tension is necessary, two of which I will include here to close this section. The first, is his analysis of the aporia present in my relation to the Other in “Violence and Metaphysics” while the second discusses what he calls the aporia of justice in “The Force of Law”.

Starting with the Other, Derrida argues that we never encounter radical difference in a vacuum. The Other is not just their radical difference in abstract but is encountered alongside a concrete living person. This is true even if we agree that the radical alterity of the Other is that which exists in ‘an immemorial past’, leaving it protected from conceptualization. Our experience of alterity is always mediated by our enrootedness in a social world and the demands of the third

party. Derrida's insight here is that if the radical difference of the Other evades presence, but we only ever encounter the Other through their presence, then subjectivity is essentially and irresolvably violent to the Other from the start. Derrida writes that:

In the last analysis, if one wishes to determine violence as the necessity that the other not appear as what it is, that it not be respected except in, for, and by the same, that it be dissimulated by the same in the very freeing of its phenomenon, then time is violence. This movement of freeing absolute alterity in the absolute same is the movement of temporalization in its most absolutely unconditioned universal form: the living present. If the living present, the absolute form of the opening of time to the other in itself, is the absolute form of egological life, and if egoity is the absolute form of experience, then the present, the presence of the present, and the present of presence, are all originally and forever violent. The living present is originally marked by death. Presence as violence is the meaning of finitude, the meaning of meaning as history.²⁴

Moving onto his discussion of the aporia of justice, Derrida explains that every instance of justice must be acted on in a concrete moment. But to act in accordance with a rule in a just manner means not just complying with the rule because it is a rule. Inherent in any just determination, there is an ongoing conflict between the establishment of the rule as norm and those charged with interpreting and providing what he calls a "fresh judgement". Derrida writes that:

This "fresh judgment" can very well—*must* very well—conform to a pre-existing law, but the reinstating, reinventive and freely decisive interpretation, the responsible interpretation of the judge requires that his "justice" not just consist in conformity, in the conservative and reproductive activity of judgment. In short, for a decision to be just and

responsible, it must, in its proper moment if there is one, be both regulated and without regulation: it must conserve the law and also destroy it or suspend it enough to have to reinvent it in each case, rejustify it, at least reinvent it in the reaffirmation and the new and free confirmation of its principle.²⁵

Of course, even once this new determination has been made, it in turn becomes a rule by establishing precedent. Which leads Derrida to conclude that:

...once the ordeal of the undecidable is past (if that is possible), the decision has again followed a rule or given itself a rule, invented it or reinvented, reaffirmed it, it is no longer *presently* just, fully just. There is apparently no moment in which a decision can be called presently and fully just: either it has not yet been made according to a rule, and nothing allows us to call it just, or it has already followed a rule—whether received, confirmed, conserved or reinvented—which in its turn is not absolutely guaranteed by anything; and, moreover, if it were guaranteed, the decision would be reduced to calculation and we couldn't call it just.²⁶

The law cannot be just on its own since it requires constant reinterpretation and amendment. I also, as the one who is tasked with making a judgement about the justice of a law cannot be mistaken for the source of justice (this quickly leads to tyranny). Derrida concludes that our concern for justice is mediated by an infinite idea of justice which, owing to Levinas, emerges out of our encounter with radical singularity:

We can already see from this second aporia or this second form of the same aporia that the deconstruction of all presumption of a determinant certitude of a present justice itself operates on the basis of an infinite “idea of justice,” infinite because it is irreducible,

irreducible because owed to the other, owed to the other, before any contract, because it has come, the other's coming as the singularity that is always other.²⁷

To conclude this section, the nature of Levinasian responsibility is both a philosophical framework as well as an existential task. The entrance of the third party represents the enrootedness of the individual in a social world from the start. Justice is the concern for everyone which calls into question the exclusivity of singularity but is also in turn appealed by singularity. Derrida's helpful reflections on the Other and justice helps show that the tension between singularity and generality are actually placed in a double tension. The first is the tension between radical singularity and the need to establish generality. The second tension is my inability to ever approach the Other without my presence doing violence on the one hand, and my inability to ever realize justice fully on the Other. Derrida shows that justice is both possible and impossible simultaneously. It is possible through the re-evaluation of a 'fresh perspective' but in finalizing a determination, our own interpretation in turn establishes another rule which again calls for another 'fresh perspective'. Since the call to justice (the third party) emerges from my exposure to the normative shock of the singular other, and I am responsible to every single other irreplaceably, this tension between singularity and generality is ineliminable. My responsibility is to both the singular Other and the third party while simultaneously always being at fault from the start solely by the fact that I exist and encounter the Other only as embodied in the world. This does not mean that we should cease our attempts to establish generality and mitigate our harm to others. In fact, this aporia reveals that the stakes are even higher than may have originally been presumed. Bernasconi reminds us that we cannot sacrifice the singular Other or give up on establishing just institutions even if this amounts to mitigating the ever-present injustices.²⁸ He writes that:

To ignore institutions and politics would be like remaining on the spiritual level of desire, thereby approaching the Other with empty hands.²⁹

After which he continues by saying:

The ethical interrupts the political, not to direct it in the sense of determining what must be done, but to challenge its sense that it embodies the ultimate wisdom of "the bottom line".³⁰

Section III: Euthanasia and Levinas

If we accept what has been presented so far as correct, then we need to address the following consequences. First, any discussion of euthanasia should be understood as a living and changing dialogue. While laws, customs, and even ideas are very important, they regularly do violence to individuals due to the tension between their generality and the singularity of specific others. We participate in this discussion with the hope of mitigating the harm medical and legal policies can have upon individuals who are dying while also recognizing that no amount of work could ever release us from our own responsibility for the ones we encounter in the dying process.

Second, since the tension between generality and singularity is irresolvable, the moral individual as has been presented in this MRP plays a dual role. The first role is to be the site that is sensitive to the appeal of the Other encountered in proximity. The second, is to engage and establish general rules and participate in determining the justice of cases. We are both on trial and jury but rarely (if at all) get to occupy both positions at the same time.

a) Definitions and Preamble

I find it prudent to begin the transition to medical ethics by providing some common definitions often used when discussing euthanasia. The Greek root words in euthanasia are “eu” (good) and “thanatos” (death). The goal is to provide the most painless death possible either as a

consequence of relieving suffering or as the only remaining option to spare a patient from a long and painful dying process.

Physician assisted suicide:

Voluntary suicide by a patient performed with the assistance of a physician, who typically provides the means to end the patient's life, such as a prescription for a lethal dosage of medicine.³¹

It is important to note that the physician does not actively participate in the administering of the means to end the patient's life but is simply the facilitator.

Active euthanasia:

The use, for merciful reasons, of direct actions to bring about a patient's death; examples include giving the patient a lethal injection.³²

Passive euthanasia:

The withholding or withdrawing, for merciful reasons, of life-extending medical treatment to allow death to occur from natural causes.³³

A common occurrence of passive euthanasia would be the act of "unplugging the life support machine". The doctor does not actively administer some lethal agent to a patient who would otherwise continue living. Instead, assistance necessary to stave off the patient's otherwise lethal condition is withheld or removed. This is sometimes alternatively referred to as WLST (withholding of life sustaining treatment).

Nonvoluntary euthanasia:

Nonvoluntary euthanasia occurs when the patient is not competent and a surrogate decision-maker requests either withholding/withdrawing treatment or giving a lethal injection.³⁴

A typical situation involves patients who are no longer conscious and are considered braindead. In these situations, the patient is in PVS (persistent vegetative state) and decisions about how to proceed must be made without the ability to verify the patient's position (assuming there is no written statement made by the patient previously). In Section IV, I include the case of Robert Latimer killing his disabled daughter Tracy which I also count as an act of nonvoluntary euthanasia. Robert was unable to receive any kind of competent request from Tracy that could validate his decision to end her life. He can appeal to her cries or to the horror of the surgeries done to Tracy's body, but we could not say that Tracy voluntarily requested euthanasia.

Involuntary euthanasia:

Involuntary euthanasia occurs when a patient who is competent and does not want to die is either killed or has his treatment withheld/withdrawn, resulting in death, without his consent.³⁵

Involuntary euthanasia tends to be vehemently opposed as murder in all cases.³⁶

b) Consideration of Some Dangers to Legalizing Euthanasia

The bulk of the literature concerning euthanasia restricts itself to discussing the merits and consequences of legalizing active voluntary euthanasia. Supporters share the desire to maximize the benefits of its legalization while avoiding the possible risks legalization might bring. For example, there are concerns that the more lenient we get with euthanasia legislation, the more likely abuses of the practice will occur. Specifically, I think of Velleman's concern that making

euthanasia a positive right is actually harmful by virtue of the fact that the burden of proof for choosing to continue living falls on the lap of the patient.³⁷ Velleman explains that:

Once a person is given the choice between life and death, he will rightly be perceived as the agent of his own survival. Whereas his existence is ordinarily viewed as a given for him - as a fixed condition with which he must cope - formally offering him the option of euthanasia will cause his existence thereafter to be viewed as his doing. The problem with this perception is that if others regard you as choosing a state of affairs, they will hold you responsible for it; and if they hold you responsible for a state of affairs, they can ask you to justify it. Hence if people ever come to regard you as existing by choice, they may expect you to justify your continued existence.³⁸

To put the burden of justifying one's situation on the patient exposes them to potentially dangerous social pressures. For example, in cases where the continuation of your existence requires significant care and is extremely costly for your immediate family (either financially or labor intensive or both), to be aware that your choice to keep living was squarely on your shoulders may be too much for some to bear. Velleman warns that:

Forcing a patient to take responsibility for his continued existence may therefore be tantamount to confronting with the following prospect: unless he can explain, to the satisfaction of others, why he chooses to exist, his only remaining reasons for existence may vanish.³⁹

Velleman worries that people may feel obligated to choose euthanasia since the perception of choosing to live in these cases is also implicitly a choice to continue being a tremendous financial and/or laborious burden. There are also specific concerns for people with disabilities. If we consider that many of the people who would consider euthanasia would be the severely

disabled, legalizing euthanasia risks making a statement that their lives are worth less than others.⁴⁰ There are also concerns that making death readily available without improving social conditions may lead vulnerable minorities to seek out euthanasia when they otherwise wouldn't have if their social conditions were better.⁴¹ While I will put this discussion to rest for now, Section V will propose how social policy can mitigate at least some of these concerns.

c) **Killing vs Letting Die**

Normally, when passive euthanasia is discussed, its inclusion is used to argue that it differs enough from active euthanasia that one could be in favour of the passive form yet oppose the active form. The issue is determining if there is a morally significant difference between killing and letting die.⁴² For the purposes of this MRP, whether or not euthanasia is considered killing is not the morally relevant issue. Since the position I have presented is predicated on the tension between generality and singularity being irresolvable, we can never remove the possibility of individuals being altruistically compelled to partake in actions that result in the death of the other person regardless of how those actions are classified.

An astute reader may respond that I have already shown in Section I that Levinas founds the normative shock of alterity on the command not to kill the Other which should be justification enough for caring about the distinction between killing and letting die. However, I would also remind the reader that the intention to murder targets that which no act of violence could ever reach, namely, the Other's radical alterity. On the other hand, euthanasia's motive is not the desire to annihilate but the desire to alleviate.⁴³ While this is not enough to justify all acts of euthanasia, I argue that the difference between the desire to murder and the desire to alleviate suffering has tremendous moral significance for a Levinasian inspired approach to euthanasia. If my reasoning is correct, the morally significant factor we should be concerned with is not what

method was used the result of which was the end the Other's life, but whether or not the intent was murderous or altruistic.⁴⁴ Of course, having good intentions does not always mean an action was justified (this will be revisited in section IV) and in Section V I actually argue against the moral permissibility of euthanasia on a broad a societal level.

d) Nuyen: Euthanasia and Levinas

In a previous attempt to introduce Levinas into the discussion about euthanasia, Nuyen uses Levinas' criticism of suicide and his discussion of death as absolutely unknowable to argue that the issue at stake is not whether or not death can be better than suffering.⁴⁵ Instead, the question to ask is how to be responsible to others while approaching death (both our own and theirs) and whether or not euthanasia fulfills that requirement (which he argues it does not). While this MRP is not intended to be a direct response to Nuyen, his inclusion of Levinas while discussing euthanasia requires that I show how my own conclusion differs. To Nuyen, euthanasia is an extension of suicide which Levinas argues is metaphysically impossible and ethically irresponsible. It is metaphysically impossible because we cannot know death. Death is not the opposite of life but is refractory to the dichotomy of being and nothingness. To assume one can know death would require that you could experience dying death. However, the very point of death is that it is the end of experience. The subject is unable to live to die death and can thus never make accurate knowledge claims about the nature of death from the side of the dead. Suicide then does not achieve its goal because it cannot arrive at that which it aims for. This obviously doesn't mean suicide isn't physically possible, but that the motivation for it is not actually to achieve death but is instead to protest against/retreat from suffering.

Next, euthanasia is ethically irresponsible because it does away with the other who is the one I am responsible for and the authority I am accountable to. To do so is contradictory because the one who commanded me to act is no longer present to consecrate the results.

For something to be a command, one who is under the command must be accountable to one who issues it, either to show that the command has been carried out or to explain why it has not. In the case of the command to assist suicide, I can be accountable only by disobeying it.⁴⁶

I do find it interesting that Nuyen leaves open the possibility of actions like WLST/passive euthanasia, processes which do not intend to kill the patient but are aimed at alleviating suffering and may result in an earlier death.

This certainly does not mean that I can ignore my neighbor's cry for help. I am still responsible for addressing his pain and suffering, and I must do whatever it takes to end such pain and suffering, even if in my doing so, death comes.⁴⁷

My issue with Nuyen's presentation of Levinas is that he fails to include any discussion of the third party. Without the third party to call into question the exclusivity of the face to face, the ending of the life of the Other would mark the end of responsibility. The answers I give and the way in which I approach and care for the suffering of the Other are scrutable by everyone and thus exceed my responsibility to the singular Other while also simultaneously being the only way I can try to fulfill my responsibility to that same Other. Derrida's reflections help remind us that the encounter with the Other always takes place in the social world, the world as presence and economy. The ones whose lives are ended through euthanasia practices (or lack thereof) are still

present in the world as ethical resistance in the minds and words of the others. This means that responsibility does not end with the death of the Other ever, no matter what way they pass on.

Section IV: Case Study

I have selected an old but popular case from the news that I argue is paradigmatic of my claim that the individual is the site that is sensitive to the appeal of the Other and that one's duties to both the third party and those personally encountered do not ever overlap neatly.

a) Robert Latimer

In 1992 Robert Latimer chose to end the life of his 12-year-old daughter Tracy by asphyxiation due to carbon monoxide poisoning from being left in his truck. Tracy was born with severe cerebral palsy and suffered consistent pain from seizures and organ damage from her posture. She was unable to speak, reason, or fully control her limbs. The attempts to correct her issues also increased the level of suffering she experienced on the day to day. To combat her latter development of scoliosis, steel bars were used to align her spine. While it may be debatable as to the precise amount of suffering Tracy experienced, the point of introducing her example here is more to talk about how her father Robert came to decide to kill Tracy and what significance this has for our discussion.

Robert perceived Tracy making an appeal to his responsibility to kill her even though this act went against the general prohibition of euthanasia at the time.⁴⁸ Of course, there is a tremendous danger with an individual deciding to make an exception to a general rule or law on their own. As was also shown in Section I, the individual is not equipped with the authority to validate the truth of their own beliefs/perspective. While supposedly Robert's only concern was to alleviate Tracy's suffering, many other parties were against his actions. Various members of the disabled community declared that Robert's actions harmed them even though he did not know or target

any of them personally.⁴⁹ He chose to be irresponsible towards his duty to the third party in order to do what he believed would bring peace to his daughter. I emphasize “believed” here to highlight what makes this case a paradigmatic example for me. Since I cannot call myself into question and consequently, cannot also serve as the judge for my own justifications (Section I), making a judgement call like the one Robert made leaves open the possibility that his belief about what he had to do to properly be responsible for his daughter was mistaken. We also cannot ask Tracy, as the source of the singular appeal that motivated Robert to act is also now absent. Robert cannot know if this was actually what Tracy would have wanted and can never rely on her testimony to validate his actions after the fact.⁵⁰ This is not to say Tracy isn’t still actively involved in determining whether or not what Robert did was right (we could even say she is helping right now), but that she cannot ‘attend her own manifestation’ as Levinas would say by being her own witness in court.⁵¹ Our job as those who were not present, is to make an evaluation of how society should behave when confronted with this kind of scenario. Robert’s actions were intended only for Tracy, but the issue of determining his sentence concerns everyone. To ignore the demands of the third party is to do away with justice.

Section V: Political Participation

I propose that when working on the issue of euthanasia, policies should place the burden of discernment on individuals involved in medical practice (such as parents, patients, and physicians) since it is on the level of the face-to face that the failures of the law are felt. We must also protect against the abuse of random individuals granting themselves the authority to make exemptions as much as possible. To discard discourse and determine that euthanasia is appropriate in a scenario on your own is always a possible consequence of the ineliminable tension between generality and singularity but is always a dangerous violence that risks

vigilantism. If asked which kinds of policy my position could support, it would be those that strive to prohibit euthanasia in general while facilitating exceptions. I consider the laws which existed in the Netherlands during the 1980s to be good examples of this.⁵² Through these policies euthanasia was considered to be illegal but also protected physicians from being charged for carrying out euthanasia practices so long as they met certain safeguard criteria. The strength of such a system are that they deny individuals the ability to view euthanasia as something they are entitled to which protects against many situations of abuse. If we recall Velleman's concern in Section III that making euthanasia a positive right puts the burden of responsibility for choosing to remain alive on the patient, social policy that does not permit euthanasia in general protects the patient from this danger. This means that families, individuals, and physicians work together not to determine whether the patient's reasons for continuing their existence are justified but instead, whether or not an exception to the prohibition of euthanasia should be made. We can therefore propose social policy that protects individuals from unwanted side effects of having access to certain options while also remaining cognizant of Levinas' claim that the alterity of the Other is founded concretely on the command not to kill the Other which should be the status quo. Finally, this also protects against random individual's feeling the need to take matters into their own hands to uphold their responsibility to specific suffering others under what they perceive to be unjust or too harsh of a law. However, since the tension between generality and singularity is ultimately irresolvable, and since we are irreplaceable in our responsibility to every specific person we encounter even if we participate in the implementation and amendment of social policy, we can never fully remove the possibility that we may be required to act against a general rule for the sake of the appeal made by a specific Other at the cost of potential violence to all other Others. However, the matter of consecrating such an action can only be determined by

discussion in justice with the third party. Let us not forget that Latimer was brought to court, sentenced to 10 years in prison, and is seemingly never going to be able to do away with the retribution of the third party. To this day he is also still seeking justice for what happened.⁵³

Robert still argues he did what was right and that his criminal record should be pardoned. This shows he recognizes the legitimacy of the third party even if he also believed he was legitimately right to act against their original determination.

Conclusion: Existentialism and Tragedy

The ethical position I am presenting recognizes that the individual is the site that is sensitive to the appeal of the singular Other and that this means the burden for discerning how to act in a situation where the law appears to have failed falls upon them. This is necessary if the individual is in fact irreplaceable and can therefore not unburden themselves of their responsibility by handing it over to the state or an ethics committee, etc. However, although the individual is placed in the position of being required to act, they also do not have the authority to determine what is right or wrong on their own in advance. Therefore, my position is far from a hyper-subjective existential theory and is more akin to a tragic theory of intersubjectivity where the role an individual plays is to balance their responsibility to create and amend institutions and making judgments about the conduct of others, with the requirement to act based on their exposure to individual appeals all the while being unable to know on their own whether they made the right decision until they are judged by the others afterwards. In this sense the burden to act is in the hands of the individual and not the law or policy, but the consecration of the action is in the hands of the others. To sacrifice the third party is never actually possible. What is possible is to act against the determination of the third party. On the flip side, to sacrifice the singular Other for the sake of the third party is to risk tyranny and absolute violence. Of course, we very often

have to choose one side yet always lose regardless of whichever side is chosen. For euthanasia, we should be cautious about being too socially lenient when it comes to our ability to offer death as a service but should always remember that we may be compelled by specific instances to perform or assist with acts that result in the death of the Other which simultaneously conflict with the general rules/institution's judgement.

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NOTES

¹ See Levinas, "Ethics as First Philosophy" (1989).

² Levinas wrote that: "It [human reason] discovers the dogmatism and naive arbitrariness of its spontaneity, and calls into question the freedom of the exercise of ontology; it then seeks to exercise this freedom in such a way as to turn back at every moment to the origin of the arbitrary dogmatism of this free exercise. This would lead to an infinite regression if this return itself remained an ontological movement, an exercise of freedom, a theory." – Levinas, *Totality and Infinity*, 43.

³ Levinas says that, "The solipsist dialectic of consciousness always suspicious of being in captivity in the same breaks off. For the ethical relationship which subtends discourse is not a species of consciousness whose ray emanates from the I; it puts the I in question. This putting in question emanates from the other." – Levinas, *Totality and Infinity*, 195.

⁴ Fritsch, *Taking Turns with the Earth*, 76.

⁵ Levinas says that: "The epiphany of the face brings forth the possibility of gouging the infinity of the temptation to murder, not only as a temptation to total destruction, but also as the purely ethical impossibility of this temptation and attempt." – Levinas, *Totality and Infinity*, 199.

⁶ Levinas says that: "The Other, whose exceptional presence is inscribed in the ethical impossibility of killing him in which I stand, marks the end of powers." – Levinas, *Totality and Infinity*, 87.

⁷ Fritsch says that “...even a socially isolated murder victim, in principle, “lives on” in these others as a constitutive aspect of *their* time. Ethical resistance in the present communicates with the memory of survivors.” – Fritsch, *Taking Turns with the Earth*, 76.

⁸ Levinas says that: “It [proximity] provokes this responsibility against my will, that is, by substituting me for the other as a hostage. All my inwardness is invested in the form of a despite-me, for-another. Despite-me, for-another, is signification par excellence. And it is the sense of the “oneself,” that accusative that derives from no nominative; it is the very fact of finding oneself while losing oneself.” – Levinas, *Otherwise Than Being*, 11.

⁹ Levinas explains that: “It [substitution] is the setting up of a being that is not for itself, but is for all, is both being and disinterestedness. The for itself signifies self-consciousness; the for all, responsibility for the others, support of the universe.” – Levinas, *Otherwise Than Being*, 116.

¹⁰ This is what Levinas’ refers to when he mentions Macbeth’s lament that the universe did not end with his death. See Levinas, *Totality and Infinity*, 146.

¹¹ Levinas says that: “In the exposure to wounds and outrages, in the feeling proper to responsibility, the oneself is provoked as irreplaceable, as devoted to the others, without being able to resign, and thus as incarnated in order to offer itself, to suffer and to give. It is thus one and unique, in passivity from the start, having nothing at its disposal that would enable it to not yield to the provocation.” – Levinas, *Otherwise Than Being*, 105.

¹² See Crowell, “Why is Ethics First Philosophy? Levinas in Phenomenological Context” (2012).

¹³ Levinas says that “It is already a sign made to another, a sign of this giving of signs, that is, of this non-indifference, a sign of the impossibility of slipping away and being replaced, of this identity, this uniqueness: here I am.” – Levinas, *Otherwise Than Being*, 145.

¹⁴ Levinas says that “But it is a matter of an effaced but untameable diachrony of non-historical, non-said time, which cannot be synchronized in a present by memory and historiography, where the present is but the trace of an immemorial past. The obligation aroused by the proximity of the neighbor is not to the measure of the image he gives me; it concerns me before or otherwise. Such is the sense of the non-phenomenality of the face.” – Levinas, *Otherwise Than Being*, 89.

¹⁵ Levinas, *Totality and Infinity*, 177.

¹⁶ Levinas says that: “The very status of the human implies fraternity and the idea of the human race. Fraternity is radically opposed to the conception of a humanity united by resemblance, a multiplicity of diverse families arisen from the stones cast behind by Deucalion, and which, across the struggle of egoisms, results in a human city.” – Levinas, *Totality and Infinity*, 214.

¹⁷ Simmons, “Levinas, Politics, and the Third Party” (2019).

¹⁸ Simmons, “Levinas, Politics, and the Third Party” (2019), 280.

¹⁹ Morgan, *Levinas’ Ethical Politics*, 48.

²⁰ Levinas, *Totality and Infinity*, 212.

²¹ Simmons, “Levinas, Politics, and the Third Party” (2019), 287.

²² Levinas says that “The way leads from responsibility to problems. A problem is posited by proximity itself, which, as the immediate itself, is without problems. The extraordinary commitment of the other to the third party calls for control, a search for justice, society and the State, comparison, and possession, thought and science, commerce, and philosophy, and outside of anarchy, the search for a principle.” – Levinas, *Otherwise Than Being*, 161.

²³ Morgan, *Levinas’ Ethical Politics*, 60.

²⁴ Derrida, “Violence and Metaphysics” (1978), 133.

²⁵ Derrida, “Force of Law”, (1992), 23.

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- ²⁶ Derrida, “Force of Law”, (1992), 24.
- ²⁷ Derrida, “Force of Law”, (1992), 25.
- ²⁸ See Bernasconi, “The Third Party. Levinas on the Intersection of the Ethical and the Political” (1999).
- ²⁹ Bernasconi, “The Third Party. Levinas on the Intersection of the Ethical and the Political” (1999), 86.
- ³⁰ Bernasconi, “The Third Party. Levinas on the Intersection of the Ethical and the Political” (1999), 86.
- ³¹ Fisher, ed. *Biomedical Ethics: A Canadian Focus*, 190.
- ³² Fisher, ed. *Biomedical Ethics: A Canadian Focus*, 191.
- ³³ Fisher, ed. *Biomedical Ethics: A Canadian Focus*, 191.
- ³⁴ Fisher, ed. *Biomedical Ethics: A Canadian Focus*, 191.
- ³⁵ Fisher, ed. *Biomedical Ethics: A Canadian Focus*, 191.
- ³⁶ “Any act of involuntary euthanasia is an act of murder and, as such, is both immoral and illegal...” – Fisher, Jonna, ed. *Biomedical Ethics: A Canadian Focus*, 191.
- ³⁷ Velleman, “Against the Right to Die”, (1992).
- ³⁸ Velleman, “Against the Right to Die”, (1992), 673-674.
- ³⁹ Velleman, “Against the Right to Die”, (1992), 674-675.
- ⁴⁰ See Stainton, T. “Disability, Vulnerability and Assisted Death: Commentary on Tuffrey-Wijne, Curfs, Finlay and Hollins”, (2019).
- ⁴¹ See Loreto “The Right To Die Is Coercive Without Giving Support To Live” (February 4, 2021), <https://readpassage.com/the-right-to-die-is-coercive-without-giving-support-to-live/>.
- ⁴² See Rachels, “Active and Passive Euthanasia”,(1975).

⁴³ Brock explains that arguments grounded in mercy and beneficence have, "...always been the strongest argument for euthanasia in those cases to which it applies." – Brock, "Voluntary Active Euthanasia.", (1992), 15.

⁴⁴ This is not to say that the distinction between killing and letting die holds no moral significance whatsoever, but that its scope does not extend to the contents of this paper.

⁴⁵ See Nuyen, "Levinas and the Euthanasia Debate", (2000).

⁴⁶ Nuyen, "Levinas and the Euthanasia Debate", (2000), 130.

⁴⁷ Nuyen, "Levinas and the Euthanasia Debate", (2000), 130.

⁴⁸ Information taken from Issa, "25 years after conviction, Robert Latimer still believes he was right to kill his daughter." CBC News, November, 17. 2019

<https://www.cbc.ca/news/canada/saskatoon/robert-latimer-25-years-later-1.5360711>.

⁴⁹ Information taken from Unknown Author, "Tracy Latimer: 25 Years Later" Inclusion Canada, October 24, 2018 <https://inclusioncanada.ca/2018/10/24/tracy-latimer-25-years-later/>.

⁵⁰ I am aware that Tracy was unable to verbally communicate even while alive. The point here is that Robert does not have any source connected to Tracy's living condition that could confirm whether or not he did the right thing after the fact. Even if she could not speak, were she alive, Robert could use his interpretation of her condition (whether it improved or declined further) as a kind of communication.

⁵¹ Levinas says that, "Speech is an incomparable manifestation: it does not accomplish the movement from the sign to the signifier and the signified; it unlocks what every sign closes up at the very moment it opens the passage that leads to the signified, by making the signifier *attend* this manifestation of the signified. This attendance measures the surplus of spoken language over written language, which has again become signs." – Levinas, *Totality and Infinity*, 182.

⁵² See Griffiths, Bood, Weyers, “Two Reflections on the Significance of the Dutch Experience.”, (1998).

⁵³ Information taken from Issa, “25 years after conviction, Robert Latimer still believes he was right to kill his daughter.” CBC News, November, 15. 2019

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