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Response to Pavlich and Pycroft
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At the risk of appearing to create unwarranted philosophemes, there is only one question to be solved by the academy, and that is, 'How should we live?' All other questions are mere underlabourers to this question. The question: What *is* there? can tell us who are the subjects of our inquiry, for whom should the world be better, and what tools we have to implement the answer to our question concerning how to live. The question: What can we *know*? tells us how solid our assumptions about how to live can be, and why anyone should take seriously what anyone else has to say. Hence criminology is always about changing the world; we may differ about what we need to know to achieve change, we may differ about the nature of our subjects (not topics) but the first question is What do we need to do to change the world for the better? In other words, Ethics is first philosophy: the beginning and the end of criminology. In criminology we have questions like: What is better? For whom is it better? How do we make it better? Are we succeeding in making it better? Why is it not better? And the converse side of this question: What is wrong? All of these questions are directed at making the world in which we live a better place; of course, this is not an exhaustive list, and we may not agree about the answers, but we are all ultimately asking the same question.

In my paper, 'Blame, Responsibility, and Peacemaking' I began with the suggestion drawn from many sources, that peacemaking in criminology would be of great benefit in making a better world. First, I asked an ontological question concerning the popularity of peacemaking in criminology – how much criminological work is there in this field – and, unsurprisingly I saw little criminological interest in the subject. I asked myself why? I took the line that in a community like that of criminology, wedded to enlightenment reason and empiricism, peacemaking work founded on 'the great wisdom traditions' is unlikely to be taken seriously. The object, in part, of my paper then, was to convince this community of the need to take this intuition about peacemaking seriously. I attempted to do this by following Levinas' claim that our subjectivity lies entirely in the ethical relationship with the Other and originates in a command emanating from her before I have any intellection of her or of myself. One of the main claims of the paper is that this relation with the Other is necessary whereas our relation with blame and juridic responsibility is not, and, since blaming is conflictual at the very least, and indeed, in many cases violent, our olamic, asymmetric relation with the Other must triumph if we are to make a better world.

Pycroft, in his interesting response to my paper, mistakes, unfortunately, my description of rational, empirical criminologists as being a description of myself. Apart from the (many) pills that keep me alive, I have a more than healthy skepticism of science. I, like Pycroft regard Dawkins as figuring himself leader of his own church, whilst also being in denial that it is a church. One thing, however, must be said about Dawkins' '*Scienty Church'* is that it is absent a *T-*

metaphysical[1], *T*-transcendent super-being. I use the concept transcendence in its theistic sense here whereas, one might suggest, following Heidegger's *Being and Time* (1996 [1926]) or Levinas' *On Escape*,(2003 [1935]) the term transcendence has become available to us in a secular form. Moreover, therefore, *S*-transcendence is emergent from that which is immanent in the factical and thereupon is not *necessarily* metaphysical. Hence, it becomes clear that we can speak of the problem of the "insufficiency of the human condition" (Levinas, 2003 [1935]§1) without recourse to theology, *S*-metaphysics, or the logical positivism of Carnap's *Aufbau* for example*.*

A further problem arises from the imbricated ideas, 'God', 'Faith', 'Church', 'Religion', and 'Theology'. I am not sure that Pycroft does sufficient to separate them, neither is he clear to which of these things we should appeal in our search for 'the good'. An issue touched upon in my paper is that faith precludes questioning. This I believe is true for this reason; questioning is seen by many religious people as evidence of lack of faith, and this is so because faith is faith in an omniscient and omnipotent God. In other words, failure to 'just leave it all up to God' is seen as a failure of one's faith in the form of a lack of trust.

Another problem that I perceive with Pycroft's paper is that religions do not always advocate peace. Amongst the work directed as a response to 'the death of God', and the wrongs of capitalism, is work in the field of liberation theology, following writers like Pierre Teilhard de Chardin and Gustavo Gutiérrez for example. Some other liberation theologians, however, have been used to calling for religion to bring a not peace, but a sword, following Isaiah 61:1, Matthew 10:34, or Luke 22: 35-38. This really does not constitute peacemaking, despite being the kind of religion most directed at improving the world for those most sinned against, that is, secular justice. Indeed, it simply legitimizes violence from a different source against a less common victim: peacemaking is not simply the displacement of violence, it seeks its eradication. Moreover, evidence from some evangelical communities in the United States, for example, show an attitude far removed from the ideals of '*agapé*'[2], and Modi's Hinduism, from this quarter of the globe at least, seems full of hate. This is religion in practice – *radically human* both in its bad and its good. 'Faith', 'Church', 'Religion', and 'Theology' are all human. They are edifices whose purpose is to support the notion of the existence of God, as much as the notion of God supports them. In the absence of any one of them, the whole fabrication comes tumbling down. This is serious, since no matter how much might be claimed for the elements of this structure *other* than God in terms of doing good, in the *absence* of God, no distinction may be discerned between them and other, non-theistic structures. For example, early in his paper Pycroft asserts that religion "is associated with cultural and social cohesion with for example faith-based organisations delivering health and welfare services which are non-proselytizing, and often funded by governments". There is, of course insufficient evidence to conclude that these things would not happen in the absence of religion, and indeed, examination of religious mimesis shows that it is contradictory to suggest that man cannot do good things without God[3]. Of course,

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[1] Hereon in I will use the following signification for the different uses of some terms *T*-transcendence, or *T*-metaphysics for their theistic uses, and *S*-transcendence or *S*-metaphysical for example for their secular uses where necessary.

[2] In classical Greek, the fourth form of Love – unconditional love.

[3] If God makes man in his own image, and God is good, then man is good. If man makes God in *his* image and God is good, then man is good. Hence the notion of the *imitatio* – the supposed mimetic nature of our relationship with God – and the good, reveals the nonnecessity of God in the equation. Furthermore, The development of ethical monotheism during the 1,000 years or so BCE is revealing. In the face of the claim that God is infinite and the acceptance that he has, therefore, existed since before time, we must ask whether, before mankind discovered ethical monotheism, God was not ethical. If we conclude that he was, we might assume that he was incapable of communicating his ethicality to mankind, contradicting the claim of omnipotence. On the other hand, one may then suggest that this is the result of Man's obduracy. This also contradicts the claim of God's omnipotence since he appears im*potent* to eradicate this failure in Man. This is problematic for 'the new theists' because it suggests very strongly that the 'ethical' in ethical

religion is frequently a cynosure for certain good collective practices, but without God, they are no different to any other node around which organisation takes place, and as such deserve no *privilege* in our accounting for, or search for the good. This is of importance where   Pycroft's appeal to religion in the search for *the good* is concerned, and my problem (above) of faith and questioning. Should we assert the *necessity* of God in this search, then it follows that *all* Good would flow from God because of his omniscience, his omnipotence, and because he is *full of Grace* .

The Doctrine of Grace holds (according to The Catholic Catechism, 1996) that Grace is the means by which humans come to be 'Children of God' and partakers of the divine nature, and of eternal life. It is the nature of Grace as charism that it is *fully and freely* given (even to the undeserving), that is, it is a spiritual gift or talent granted by God to the recipient not primarily for his own sake but for the benefit of others

> in order to perfect the saints for a work of ministry, for building up the body of Christ …
> [t]ill we all come in the unity of the faith … unto a perfect man unto the measure of the
> stature of the fullness of Christ [4]

(Clearly, here we meet the supposed mimetic character of our relationship with God again). We might, then, read this as saying that Grace is necessary for the emergence of the good; the 'fuel,' as it were, that enables us to do good things, and thus achieve 'justification' which is a precondition of access to eternal life. Should God never deny his grace to anyone, grace must not have to be earned: everyone must possess it. Grace, then, should not need to *flow*. Moreover, since the catechism tells us that Grace is never denied, it is fully and freely given, everyone should have a plenitude (more than a sufficiency) of it. Contradictorily, the Catholic Bishops Conference of England and wales 2013 tells us, Grace "follows us so that we may always live with God: for without him we can do nothing"[5], and that the means by which God *grants* (emphasis DJC), (i.e., we can achieve), his Grace include the "entirety of revealed truth, the sacraments, and the hierarchical ministry"[6]. What this means, then is that through Grace the faithful receive the life of the Spirit who breathes charity into them. Charity, in the form of *agapé* constitutes the general Good and our attitude towards others. The Good therefore flows from God's knowledge which is total and revealed only through his grace, through partaking of the sacraments, and by obedience to canon law. It would seem that if Grace is communicated in this way, that there *are* in fact conditions: conditions that atheists do not fulfil. In addition to being paradoxical, (Grace, it would seem is simultaneously freely given and dependent on certain conditions) it would further follow that atheists would be incapable of conducting the search for The Good successfully because they would not be partaking in the life of the Church by attending the sacraments, or following canon law. It would appear, then, in this view, that only the religious can conjure the good. So, is there, then, a God? because if not, clearly there is no god from whom the Good must flow, and, neither is there any special privilege to be accorded to those goods that flow from the *idea* of God. It seems to me that the question about the existence of God is always,

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monotheism is an emergent property of mankind, and that the capacity to do good is immanent in man not God.

[4] Eph 4:11-13

[5] Vatican 2013 The Catechism of the Catholic Church.
https://www.vatican.va/archive/ENG0015/__P6Z.HTM

[6] Catholic Bishops' Conferences of England & Wales, Ireland and Scotland, One Bread One Body Archived 2013-06-12 at the Wayback Machine, p. 7

What does the presence of God bring to the world that is necessary to that world, that his absence would prohibit? [7] and the answer seems to me, still, to be nothing.

Let us now consider the question of the presence of God in atheism. The tradition of enlightenment atheism is still reliant on God: that is, it is *defined* by an absence of a God archaically conceived. We should bear in mind that it is always the presence (actuality) of *something* that is absent. Where God is concerned the very term, atheism reveals this: atheism maintains the trace[8] of that which it wishes to abolish. Had there never been God, then there would never have been atheism. In the world of religion, meaning inheres in the *T*-transcendent or 'The (pantheist's) World' itself. An atheist's world is a world in which sense is no longer *attached* to the world, but where it is the condition of our being-in-the-world as such. The world does not have sense, it *is* sense, and this defenceless existence means that we have to exist such that we *are* (with the signification of being *excendent*[9]) and can no longer hide behind some or another *presupposed* meaning of life. We are exposed to the reality of the world and ourselves, and that is the signification of existence. In the search for the good therefore, the task is to speak a catechism (as it were) of the good not limited to God: to wit, it doesn't mean that good intuitions about the good *don't* come from persons' beliefs in God, but it doesn't matter one way or another. What matters is that their endeavours give rise to a productive ways of thinking about how to bring human beings to improve the condition of their own humanity, or the "insufficiency of the human condition" that is, *not* as liberal enlightenment *individuals*, *nor* as subjects of canon law. The religious believes that the source of good originates in God, and is communicated through Godly men, the atheist takes the source of good where they find it, Godly or not: she has no need for theologically redemptive eschatology.

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I would like to make some comments now about George Pavlich's response to my paper and begin by saying that there is very little gainsaying what Pavlich has said; I agree with most all of it. I thank Professor Pavlich for his insightful summary of my paper, perhaps he has elucidated my ideas better than I have. I do however have one or two ideas to throw into the melting pot of this special issue. I would like to restate the main thrust of my paper. As I have suggested above, my position is that there is one question only to be answered by the academy and that is the question of how we should live (with others – singular plural[10]). It follows, then, that criminology too, *should* flow from a grounding in ethics: criminology emerges as a form of practical ethics. Hence, the ideal towards which I point in *'Blame, Responsibility, and Peacemaking'* is a grounding for a conception of living together without blame, and hence criminalization and the law, in its current form at least, and the subsequent reduction of violence in our relationships with one another: that is, Peacemaking. Let me say that blame is not really the first concept under consideration but responsibility (I recognize that I could most likely have been clearer about this). My call is first to re-evaluate responsibility and offer a basic Levinasian version in the stead of our conventional juridic concept. I suggest also, that blame can be reconceived, and that the two reconceptions together provide a ground for a reconfiguration of the way we might live together without the apparatuses of criminalization or of its attendant subjective violence: the inequities of the distribution of justice having been discussed in critical criminological circles *passim*. So, in part, I see *'Blame, Responsibility, and Peacemaking'* as a beginning to think about what thinking-about-an-absence-of-blame might achieve.

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[7] C.f. Findlay (1948)

[8] Derrida and Levinas *passim.*

[9] Excendent – active, as opposed to the passive transcendent See Levinas' On Escape (2003 [1935]).

[10] C.f. Nancy (2000)

Pavlich's first response to my paper concerns the 'conceptual order' of blame and accusation, and the presentation of that order in the world phenomenally. For Pavlich "'blaming scenarios' in criminal law only come into being through prior accusations; they contingently surface through accusatory processes that arise to repair fractured meaning horizons". Pavlich also notes what he takes to be accusation's conceptual priority in relation to the primordial accusatory address, 'you', by which we must address all '*singular*' Others and xenophobically *'plural'* Others, and he cites Levinas in support of this view in his 'Second Response'. All juridic procedures have local bases, and this is because they are directed (primarily) at persons who are '*present*' to us – that is they are known to us (albeit merely juridically) as individuals, and individuals all occupy locally situated (juridic) conditions. Furthermore, accusation is always ostensive (C.f. Antaki, 2016, pp. 50, 51; Heidegger, 1996 [1926], pp. 56, 70, 89): blaming is not necessarily so. This is important because as Pavlich himself points out in his *The Apparatuses of Criminal Accusation* (2016) the foundations of blaming and accusing already circulate in locally situated conditions before we formalize them in the grammar of our addresses either to the yet-to-be-accused, or the reference to *'him'* (i.e. the other – accusative) amongst 'us': 'The We'[11,12,13]. These processes were, of course already under way in the community of 12th century Norwich of William of Norwich, as Pavlich points out, in the form of commonplace anti-Semitism and church politics of the day, that posited the 'Them' (*αὑτοῦ*) of the Jewish community as worthy of accusation. However, because of the ostensive nature of accusation, it remains merely immanent until the law becomes involved, whereas the mechanisms of blame, individual and corporate, are already real and subject to exchange amongst 'Us', and this circulation is one of the modes of establishing who 'we' are: establishing amongst *our*-selves for whom we should be (or should not be) responsible[14]. In this way, then, blaming precedes accusation phenomenally in the world at large (i.e. outside of juridic processes). One of the implications of my paper is, I hope, a pejorative judgement on the whole notion of the juridic and hence crime, as being ineradicably violent. Should we dissolve the juridic, we would also decline to accuse, since it would be unnecessary. Moreover, should we decline to blame we should no longer accuse, since, contra Pavlich, blaming (it seems to me) is the foundation of accusation. Pavlich's response to my paper seems to me (forgive me if I am wrong) to be permeated throughout with the trace of, if not the actuality of the juridic. In support of this claim I return to my earlier quotation: "'blaming *scenarios' in criminal law* only come into being through prior accusations" (my emphasis). My hope is that the possibility I have opened up in my paper is one where we can step beyond the criminal law and discover a kind of community that does not rely on the judgement of sameness and otherness: a kind of singular plurality.

Should it be the case that blaming precedes accusation phenomenally, the question becomes one of how blame is translated into accusation hence bringing the blamed under juridic discourse (the topic of Pavlich's third response if I am correct). If accusation is the foundation of legal processes, then the question of the capacity to effect this translation becomes the question of the foundation of law (C.f. Crewe, 2013 again). A significant feature of this capacity recently is the capacity to harness these circulations of meaning in the public at large and turn them to political benefit – the foundation of political populism. Where our discussion here is concerned, we must address the consolidation of meanings concerning 'Them'. Consolidation is the key verb here. Meanings circulate amongst persons and people (singular plural), and persons identify as

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[11] In English one might be able to say 'The One' as in to say, 'one does': that is, those things that we do (and *they don't*, and *vice versa*).

[12] These circulations of significations are the subject of my (2013) where the negotiation of shared meanings creates *more or less* stable cultural units, inness or outness of which is the foundation of law and crime.

[13] This also includes the private, psychic, blaming processes of the blamer(s).

[14] I speak empirically, of course, not normatively.

cultures, groups, and peoples, through the consolidation of these meanings. Meanings consolidate as a function of the scale, density, 'practicedness', persistence (age) etc. of these groups thus identified, and in accordance with the models of Deleuze & Guattari (1988 [1980]), and of DeLanda (2006) for example, the range and quantity of the capacities of these assemblages increases (let's not get into the whole story here). Among these capacities is the capacity to translate 'alien-making' meaning circulations into accusatory ones by creating law, and hence crime, criminals, the subjects of juridic individualizing discourses immanent in the practices of the law. These alien-making discourses (singular plural) are part of the processes of corporate blaming and the rejection of responsibility for others embedded in Liberal-enlightenment, individualistic societies. This directs our questions concerning how to live to old (and new) debates concerning Liberalism of the Enlightenment, the Communitarianism of writers like McIntyre, and other conceptions of community in Nancy (2016), Blanchot (2016) or Critchley (Passim) for example.

In his fifth response to my paper Pavlich turns his gaze on post-juridic possibilities. It has long been my belief that there are no satisfactory *justifications* for punishing, only possible explanations. However, this does not mean that there is no need for incarceration. We are, assuredly, aware that there exist some people whom we would be foolish to leave at large in society: Harold Shipman in the UK for example, or Ed Gein in the US. However if we are unable to justify our punishing, even of these people, we would have to have another reason for their incarceration, and that would be the protection of others; this also includes the protection of ourselves. Even so, this reason is not *justified* (i.e. it is a reason not a justification), since it contravenes Kant's rule concerning people as means and ends. Moreover, as I have claimed elsewhere, because of the absence of the (phenomenal) subject in the creation of the juridic subject (because of the truth of privileged access to our own mental states), and following the asymmetry of my relation with her, all offences are against her and they are mine; the only way forward that I can see in these, albeit very rare circumstances, is to make isolation from society as a whole, as humane as possible. *There is **no** place for prisons conventionally conceived as wpunishments and places of hardship.*

References

Antaki, M. (2016). Declining Accusation. In G. Pavlich & M. Unger (Eds.), *Accusation: Creating Criminals*. Vancouver: UBC Press.

Crewe, D. J. (2013). *Becoming Criminal: The Socio-cultural Origins of Law, Transgression, and Deviance.* Basingstoke: Palgrave.

DeLanda, M. (2006). *A New Philosophy of Society*. New York: Contiuum.

Deleuze, G., & Guattari, F. (1988 [1980]). *A Thousand Plateaus: Capitalism and Schizophrenia*. London: Athlone Press.

Findlay, J. N. (1948). Can God's Existence be Disproved? *Mind, 54*, 176-183.

Heidegger, M. (1996 [1926]). *Being and Time* (J. Macquarrie & E. Robinson, Trans.). Oxford: Blackwell.

Levinas, E. (2003 [1935]). *On Escape*. Stanford CA: Stanford.

Nancy, J. (2000). *Being Singular Plural* (R. Richardsn & A. O'Byrne, Trans.). Stanford C.A.: Stanford UP.

Nancy, J. (2016). *The Disavowed Community* (P. Armstrong, Trans.). NY: Fordham University Press.

Pavlich, G. (2016). The Apparatuses of Criminal Accusation. In G. Pavlich, Unger, M. (Ed.), *Accusation: Creating Criminals.* (pp. 21-43). Vancouver: UBC Press.