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Problematizing Peacemaking: A Conversational Inquiry and Philosophical Critique

Don Crewe, Leeds Beckett University, UK
Bruce Arrigo, University of North Carolina, Charlotte, USA
David Polizzi, Indiana State University, USA

Abstract:
This article follows from the publication of Crewe's (2109) essay that appeared in the *Journal of Theoretical and Philosophical Criminology*. In that essay, Crewe re-imagined the ontological, epistemological, ethical, and political dimensions of blame, responsibility and forgiveness. To put it differently, his "sociological imagination" posited a blisteringly different version of making peace with crime and restoring justice to society in theory, method, and clinical praxis. This article represents a conversational and philosophical extension of Crewe's proposed compatibilist thesis, focusing on several seemingly non-compatibilist issues at the continental-analytic divide. The intention with this conversation, as both humanistic inquiry and philosophical critique, is to better specify the criminological landscape in which the full-length articles that compose this Special Issue subsequently assess Crewe's core peace-making thesis.

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dp: Your discussion seems to move back and forth between what I would describe as a more analytic philosophical point of view and an existential-phenomenological perspective or at least, a more general phenomenological stance. Given this observation--if I'm correct--how does this overlapping influence your discussion of the constructs Blame, Responsibility, and Peacemaking? Doesn't the epistemological unfolding of your discussion get muddy by these competing ontologies?

dc: Thanks for this, David. If I may, I think one way into this question – for me, at least – lies with the last word of your question: "ontologies". We are aware, I hope, that ontology refers to the study of 'what there is'. It is a truism, it seems to me, to say that the 'There-is' is all that there is. There is not, for example, some other stuff actually out there that we could legitimately call the 'There-isn't', toward which we may direct our studies. Let us say, then, that there cannot really be two different ontologies because that would presuppose plural 'There is'es '. Assuredly, there have been times in the history of philosophy when it has been taken that there are two different

kinds of stuff – Cartesian dualism for a start. Thinkers such Carnap, and Quine in the mid twentieth century stirred up trouble by saying that there is only physical stuff, culminating in Dennett (2016) making the suggestion (not seriously of course) that there may be some other kind of stuff that might be comprised of fictoplasm (presumably made of fictoplasts); both in affirmation and denial Descartes's dualism persists in threatening us with the idea that there may exist some stuff that doesn't exist. The problem won't go away, because unlike magnetism, which, in the 19th century appeared to be stuff that existed without being real and which we subsequently have been able to describe as being made, like most things, of stuff, human experience (and blame is a matter of human experience) is not amenable to that kind of explanation. Human experience is not made of stuff – extaplasts or anxtoplasts – but it nonetheless exists and is real. Human experience, then, must be described through the use of metaphor. The use of metaphor stands as a method.

I employ another method in my paper, and this, I guess is what you allude to, when you point to my "more analytic philosophical point of view". I'm not sure that there is any coherent analytic 'point of view' per se, unless we're talking about logical positivism's view that there is only physical stuff, and I'm no logical positivist (as, for example there is no all-encompassing continental view.) However, it is again a truism that the ideas of the giants on whose shoulders we stand are communicated to us through language; some of the tools of conceptual analysis are efficacious in producing a precise picture of what communication has gone before, and the contradictions that lie therein. My point is this; I don't think there are two separate ontologies but I do think there are many overlapping methods, some more appropriate to a particular task than another. I think metaphorical tools would be inappropriate in uncovering a significant part of the blame problem that lies in the writings of the analytical tradition, where most writing about blame exists. I use analysis to clarify the problem as it stands, to deconstruct it in search of the undecidables upon which it is based, and metaphor when making use of the insights provided for me by the existentialist-phenomenological tradition. As Simon Critchley (2001) puts it, the analytical tradition looks for knowledge (in my case, of what has been said of blame) and the continental tradition looks for wisdom concerning the human condition (how we live with others, including our experience of blame and the possibilities therein). I guess what I'm trying to say is that I think that the difference between continental philosophy and analytical philosophy is overstated. We may recall that Mill (1987 [1840]) took Bentham to be asking 'is this true?' whilst he took Coleridge to be asking 'what is the meaning of this?' We cannot, of course, expect to gain any sense from the question 'is love true?' but of course we can ask whether or not it is true that Hieronymi thinks X or Y about blame and what our answers to that question mean to our understanding of what others have said on the matter. Moreover, undoubtably, we can ask what is the meaning of blame, not linguistically, but in the existential sense of meaning: what is its effect on human subjectivity. However, where some take the latter study uniquely to be productive of human happiness and emancipation we should recall the conflict between Carnap and Heidegger, where it is the former who is reformist and progressive and the latter, at times fustian and reactionary. Or, Bentham the reformer and Coleridge the conservative romantic; Gilbert Ryle began his academic career lecturing on phenomenological thinkers, and it is well known, that Derrida makes use of one kind of linguistic analysis (at least), in his deconstructive methods, that relies on revealing the sedimented meanings in concepts by analysing their etymological roots; I doubt Derrida Would be called an analytical philosopher.

I must concur, then, with Mill (1987 [1840]) that the problem is not one of one side mistaking truth for falsehood, but both sides insisting that part of the truth is the whole. Both sides may be right in part in what they affirm, but wrong in what they reject. Each side separated, therefore, places fear of error ahead of the desire for truth or understanding: that is, the full, inclusive meaning of *wissenschaft*. Naturally, we could talk for decades about this divide: its origins and meanings. But to return to your question, it is my firm belief that what I am trying to do with this paper itself, is to speak to the body 'positive' of criminologists, at least in part, in terms of language that they might understand. This involved analytical language and, more riskily for criminologists, phenomenology. In this respect I took phenomenological tools to be closer to

analytical tools than those of faith and religion or the 'Great Wisdom Traditions' with which I started my paper. Hence, I hope my message is clarified not 'muddied' by my method. In part, then, a secondary purpose of this paper is to shout across the divide, however framed, between 'analytic' and 'continental' thinking.

ba: This is a delightfully interesting response, Don, in as much as I agree with your questioning of Dave. This questioning implicates both theory and method and intersects with forms of (co)habited (i.e., relational) praxis. This is a dynamic praxis for a "people yet to come" (Deleuze and Guattari, 1994, p. 108).

More specifically, Dave's humanistic critique begins with assumptions about the meaning(s) of "ontologies" and "what there is." My view on the nature of ontology and "there-ness," is sourced in Plato's (2008) theory of forms and the metaphor of captivity depicted in his, "Allegory of the Cave." For Plato, experiencing the fullest manifestation of truth, the deepest moment of goodness, the greatest expression of justice, etc., comes into being as representation. As Plato explains through the Allegory, these representations can only ever capture the "glimpses and whispers" (Arrigo, 2015, p. 72) of human experience because they are derived from the mundane material world of (co)existence. Under Platonic conditions of captivity, the nature of ontology (e.g., what there is, what's known, what's encountered), regrettably, is incomplete, fragmented, and embodied in and through the shadows of human relatedness and communicative interaction. We need not despair, however....

Indeed, as I understand Plato (2008), the possibility of inhabiting (i.e., incarnating, dwelling within) a more fully human experience (e.g., of truth, of goodness, of justice) resides within consciousness or the topography of the mind. In order to conceive of such physicality—in order to instantiate such profoundly lived and shared human experience –one must be freed from the captivity of shadows. These shadows are the limiting sights and disquieting sounds of representation, of humanity lived through the constraints of banal (co)existence.

If Plato's philosophy of mind is correct, then a metaphysical anthropology anchors the assessment of "there-ness." As such, the nature of ontology is and must be multiplicity; that is, becoming otherwise than what there is (i.e., more than summary representations, other than cognitive schemas) or of who we are (i.e., other than standpoint epistemologies, more than identity categories). Fluid forms of relatedness exist; they are not wholes nor are they totalities. It seems to me, then, that physicalizing (i.e., conceiving of) "how we could be more or else"—as unfinished, as conscious of the "presently unrepresentable" (Cornell, 1991, p. 169)—becomes the question to ponder, even in moments of blaming, responsibilizing, and forgiving. This includes the injury claimed between litigants in marital separation or divorce, as much as the harm alleged among nations at war or under threat of ideological extremism, including terrorism.

Don: Isn't this the being otherwise, the peace-making, to which Levinas (1969) directs our attention? This is a direction that is not an arrival at truth, but rather, a departure, always, from it. I recommend that we work your thesis backward as I suspect this trajectory will be more rhizomatic and fraught with opportunities for schizo-analytic (i.e., de- and re-territorializing) conversational methods. I hope we all agree.

Dave: How might existential phenomenology, as clinical method in offender therapy and related treatment exchanges, illuminate the possibilities of Don's philosophy of peace-making? Does or can it foster dynamic praxis forms consistent with Plato's allegorical critique?

dp:

The ability to facilitate a fluid relationality within this therapeutic context, requires the ability to move beyond the construction of offender as exclusively criminal and recognize the fact of our

shared humanity. However, such a configuration of this type of event, would by definition also require that we recognize that the affixing of blame to a specific individual, even when the context is concerned with the performance of very specific criminal actions, is not sufficient in its ability to account for all that is blameworthy within that experience. Causality is rarely linear. If this was true, the fact of crime and criminal behaviour would likely be much more prevalent and far more deterministic, and far more linear then even the most reductionist approaches to the issue.

In Totality and Infinity, Levinas (1969) observes that our perception of the other is always limited and incomplete. When we totalize the offender, we also totalize the constructs of blame, and responsibility as well. Even if such a move is not actually intended, it occurs all the same. In fact, it would be impossible for any other concussion to be reached.

> "Hence, we can separate blame from some scientifically founded theory of causation. Our view of what has happened, how it happened, and how we react to what has happened, are ineluctably bound up with our unique experience of the world as active subjects within it." (Crewe, 2019, p. 5)

Though I certainly agree with your important observation, it does create its own set of difficulties.

One major hurdle relating to forensic psychotherapeutic practice is the incongruence of subjective experience. All too often, the experience shared by the client is so "other," so foreign to my own experience of the world that for some, it may not even seem believable or even possible. It is at this point that such charges of excuse-making or dishonesty emerge. Clients are aware of the reality of this type of socially constructed process and will often offer language that they have learned is expected and necessary, for this context. Perhaps more importantly, it also announces that truthful interaction is often experienced as an unwanted visitor.

> "The blamer's judgements are assumed to be sound in virtue off their being the result of reasoning rationality, and we can tell that they are reasoned and rational because they are sound." (Crewe, 2019, p. 6)

Yes, and can be wielded as a powerful weapon available to subjective experience, which emerges from a very specific construction of individual perception and social world. Central to this observation is the way in which "reason" and "rationality" are constructed. However, as Alasdair MacIntyre has powerful observed, which justice and which rationality, is not so easily established. MacIntyre (1988) provides a powerful observation in Which Justice Which Rationality that seems appropriate to include here.

> "Aristotle's mistake, and the mistake of others who have reasoned similarly, was not to understand how domination of a certain kind is in fact the cause of those characteristics of the dominated which are then invoked to justify unjustified domination." (p. 105)

It is important to point out that MacIntyre's intention is to ultimately "rehabilitate" Aristotle and his theories of justice and rationality for the contemporary reader; however, the insightfulness of this observation carries powerful implications for criminal justice and the constructs of blame and responsibility.

ba: I offered some provocation and am certainly open to critique and/or redirection. Dave's

above-outlined concerns provide some clinical grounding for his assessment of your (Don's) core thesis.

dc: Hi Bruce. I think there is little gainsaying what you have said but I'm not sure it fully answers our essentially ethical questions, i.e. 'what is the philosopher's role in promoting full human flourishing (*εύδαιμονία*)?' The first thing to say sounds so utterly banal but is startlingly true. 'We cannot imagine what we cannot imagine', or to put it slightly differently 'we cannot even *imagine* what it is that we are incapable of imagining'. In this respect philosophy's claim to the opening of the horizons of human flourishing becomes highly problematic. It means that our desiring production may be insufficient adequately to propel us towards the eudaimon. Or as you inquire, how can we conceive of [being] "'how we could be more or else'—as unfinished, as conscious of the 'presently unrepresentable' (Cornell, 1991, p. 169)". Of course, Plato's escapee from the cave, doesn't so much escape, but is dragged upward into the light (by Plato himself one might guess – Plato appears to me to have been rather fond of himself in his role as philosopher king). The point, however, is that the newly freed prisoner is freed only into the world of *Plato's* light, a world with death penalties, slavery, and absolute poverty. Plato could not have imagined our world where we lament a failing welfare state. The freed man isn't really free, he has simply been rendered captive by another set of chains: Plato's chains. This, absolutely, is because all our representations of the world are bound by power/knowledge. Plato presents himself as the expert (in the Foucauldian sense); the freed man is only allowed to see what *Plato* can imagine. What we need to think about is how we imagine anything absolutely new or transcendent. Or perhaps even merely immanent. One of the major problems with this to my mind, is that since '68 we have been led to be scathing about unifying narratives. In particular we have been brought to adopt the narrative that truth is dead, that is, what we are being encouraged to grasp is that our truths are not The Truth, but merely expert's truth, and in the face of this 'death of truth', the philosopher's truth is no better than anyone else's. To succumb to this position is an abrogation of the philosopher's responsibility. We must fight it – contemporary politics shows us this with the searing clarity of the desert sun at noon.

This kind of abrogation of responsibility produces what Mary Midgely in her (1981) '*Trying Out One's New Sword'* might call a kind of moral isolationism where judging others' ethical practices is forbidden, in a way that takes moral cultures to be isolated from one another. In part this is tantamount to saying, in answer to the question 'what is to be done?', it doesn't matter what other people do, or as Midgely has it, saying that we must respect others ethical choices, not judge them. Midgely's first argument against this state of affairs says that respect *follows* judgement – we cannot respect without first having judged. The second argument says we can, and indeed do judge other's ethical decisions. The third of her four arguments states Moral isolationism holds that one cannot judge other cultures. However, if we cannot judge other cultures, then we cannot judge our own. If we cannot judge our own culture, we cannot judge any culture at all, and moral reasoning becomes impossible. Moral reasoning is not only possible, it is necessary. Therefore, moral isolationism is false. The fourth argument states that if moral isolationism is true, then moral cultures are isolated groups, separate and distinct from one another. Cultures are not isolated groups, but rather are, as you put it "fluid forms of relatedness …; they are not wholes nor are they totalities". Midgley's argument then, is, if we can't judge others' behaviour, we can't judge ourselves. And, one might add, if we can't judge ourselves, how can we improve, or strive, or wish, or desire? Moral Isolationism must be false. Prima facie, this seems to prohibit my call not to blame however, blame is not judgement, neither is forgiveness the forgoing of judgement.

Noam Chomsky (2002) underlines this point when he says,

> "… if we adopt the principle of universality: if an action is right (or wrong) for others, it is right (or wrong) for us. Those who do not rise to the minimal moral level of applying to themselves the standards they apply to others—more stringent ones, in fact—plainly cannot be taken seriously when they speak of appropriateness of response; or of right

> and wrong, good and evil. In fact, one of the, maybe the most, elementary of moral principles is that of universality, that is, If something's right for me, it's right for you; if it's wrong for you, it's wrong for me. Any moral code that is even worth looking at has that at its core somehow."

The question, it appears to me, therefore, is how to find a description of the eudaimon that isn't merely somebody else's *preference*[1] - a kind of moral universalism – whilst recognizing that we are not merely 'rational'. That is, to step beyond the empirical bonds of our finitude represented by the notion that we are merely substantial, but simultaneously to be able to justify our position under the judgement of an Other. Human being must be both material *and* emergent. This problem has been exacerbated to a degree by the tendency to reject intuition by 'analytical' thinkers and to reject inference by continental thinkers (please forgive me being simplistic).

The Levinasian command to which I appeal in my *'Blame, Responsibility and Peacemaking'*, is really presented as a kind of rational moral intuition. Rational intuitionism (Audi 2004) is to be found in the assertion that 1+1=2. This proposition is non-inferential in that it is not to be inferred from some other proposition or claim. Hence, if we understand the concept 'number', rather than inferring that 1+1=2, we intuit it. We can therefore trace propositions from which inferences have been drawn (i.e. working backwards) only thus far[2]: in the end we will always meet up with an intuition. However, it means that, should we accept this state of affairs as a human limitation, it means that we must accept the inference(s) legitimately gained therefrom, otherwise we will have no grounds by which to justify our ethical positions. Moreover, we must accept intuition as a legitimate starting point, and we may seek *ground*s (not laws) for our intuition. Working forward from the concept of reflexivity, Levinas' position is inferential. The concept of reflexivity is an intuition. Or more accurately it is an inference drawn from human experience, and the intuition that our experience of this phenomenon is universal in humans[3]. Levinas' method, having adopted the two intuitions, 'the command', and 'the universality of reflexivity', proceeds inferentially. Justification of Levinas' position relies on him making plain to us his inferential reasoning which we can trace back to his two intuitions.

The mode of justification is that which is open to question and that is why David is right to raise the issue of method. In the circumstance that we cannot imagine what we can't imagine, we must be open to intuition: your (Bruce) "becoming otherwise than what there is" or inhabiting an emergent world. So, here I wish to invoke the methods of Fayerabend (anarchy), Deleuze and Guattari (schizo-analysis), or Derrida (reading across the grain), as being productive of intuitions. Hence, I advocate reading across the grain, anarchic, or schizoid methods of *openness to intuition.* Nonetheless, we require justification for our ethical intuitions, and thus we must be rigorous in our inferential reason when building on those intuitions. In this way we may be able to find ethical positions (modes of flourishing) that are beyond what we can currently imagine and justify them.

ba: Thanks, Don, for your clarifications and observations. They have been most helpful. I liked to tease out some of your assumptions a bit more. To be clear, my intention with this endeavour is to better prepare myself for dialoguing with you and Dave around the core concepts that inform your overall thesis, and the way (the set of ways) in which these concepts resonate with interpersonal, system-level and community-based responses to the shared human dynamics of blaming, responsibilizing, and forgiving.

At the outset, it seems to me that you, Don, seek something of a middle ground approach. If I am correct, this is an approach derived from the analytic reasoning of inference and the humanistic

[1] I have in mind A.J. Ayer who said that all moral statements are merely expressions of preference.
[2] Our belief that 2+2=4, is inferred from the intuition that 1+1=2, or 1-1=0.
[3] Of course, until recently we have taken this capacity to be unique to, as well as universal in humans.

sensibilities of intuition. This intersection constitutes a form of re-presenting (in consciousness) "there-ness." This would include the known and experienced and the parameters (e.g., terms, conditions, values) that define the yet-to-be-known and experienced. I believe this is what you mean when you indicate:

> *"The freed man isn't really free; he has simply been rendered captive by another set of chains: Plato's chains."*

But, to be sure, Platonic chains of captivity are only ever historically contingent; that is, their manifest forms are positional, relational, and provisional expressions of "knowing", "relating", "politicizing," "empowering, "" communalizing", etc. Thus, forms of (appearances of) shared humanity, can only ever yield contingent universalities" (Butler, 1992), rendering the question of totalities, wholes, and foundations, both irrelevant and obsolete. Don't you assume a fixed relationality (s static ontology) in the statement:

> *"We can't imagine what we can't imagine."*

The analyst seeks truth; the humanist, meaning. In large part, this was surely the philosophical tension between Chomsky and Foucault (2006) exhibited in their classic conversations on human nature (e.g., justice and power, language and politics).[4] You seek to establish a type of compatibilist philosophy, yes? If I am correct, isn't one question to pose, how much inference rather than intuition in any given circumstance or context? Additionally, why must "intuition" and "inference" be experienced as binaries for subjects (or subject-positions)? Am I misunderstanding your meaning? Isn't ontology made manifest (i.e., inhabited and embodied) relationally? This is a notion from Sartre (1956). Specifically, Is there room in your philosophy of ethics (an essence that seems to precede existence) to consider how such reasoning "unconsciously" sets limits on what might be productive desire (Deleuze & Guattari, 1994)? Part of my push back is linked to Sartre's (1956) position on essence and existence. The project to come is always transcendence (being otherwise) in any moment of struggle, of humanity. This is what helps to make immanence transformational, yes? Doesn't ontology precede essence (including its Platonic forms by way of ethics, epistemology, aesthetics, and the like)? What is your position on this point? Do you share my philosophical assumption in your analytic humanism concerning the shared representational dynamics of blaming, responsibilizing, and forgiving?

dc: Thanks, Bruce. Forgive me if this sounds arrogant, nevertheless I hope that I am not merely espousing a '*middle* way' but a different one, although neither can I really claim much really novel: as I said, we stand on the shoulders of giants. You are right of course; the "Platonic chains of captivity" are only ever historically contingent, - which was my point about the new light only being Plato's light, - and my "*we can't imagine what we can't imagine*?" exposes that contingency, since what is also true is that we *can* imagine what we can *currently* imagine: this is a temporal contingency. That is, just because we can't imagine something, doesn't mean that it is unimaginable. Contra to the history of Western metaphysics which is geared to the static view of reality and an obsession with substance, what I am trying to evoke here is the ultimate finitude of the human condition: finitude within infinitude. Much of what we have learned from the enlightenment has not led to the death of God ('He' never existed)[5], but merely the narcissistic usurpation of 'His' (imagined) position by us and our appropriation, as a description of ourselves, of 'His' supposed quality, infinitude. That is, we removed God and fell into the (w)hole left by 'Him': a Pascaline (1986) infinite abys that can only be filled by an infinite immutable entity, and the enlightenment mind has taken that entity to be itself. We are then left with a view of the infinite as static – if the infinite is all there can be (and I think this must be axiomatic, or at least

[4] For an excellent critique of Chomsky's analytics, see, Deleuze and Guattari (1987). The problem with compatibilist philosophy is its reliance on "homogenizing abstraction" that defers and territorializes "minor languages", see, Deleuze (*Ibid*., pp. 102-103).
[5] We may bring to mind Levinas' characterization of God as '*illeité*', beyond being, an *absence* that leaves its trace, rather than an incarnated presence (c.f. Levinas 1981:12-13).

a Tarskian (Tarski 1944) truth of language), then infinity is static[6], and, indeed, we must assert that not everything is possible: only the possible. There is not infinite possibility. Hence Butler's "contingent universalities" are the only thing. What is to come is emergent from the facticity of the world (that is, the determinism of Heidegger's thrownness), and immanent in the 'there is': emergence is the bridge between the 'there is' and the yet to come.

Assuredly, the processes of the 'there is' are open ended, however, in the search for an answer to the question, how to live? we must seek these (contingent) universals: following Kant, an imperative that is not universal (categorical) is not worth the paper it's written on. The problem with this is Kant's failure to acknowledge a 'mere' temporality, this failure serves to obscure the open-endedness of the process of striving. That is, Kant misses the truth that the universal (categorical) imperative is always only our best shot *so far*. As Levinas has said "[T]his state of potency [potential, DC] … does not denote a less than being but denotes time" (TI 209). Hence, I am *not* with Deleuze when he says "[the problem with] compatibilist philosophy is its reliance on 'homogenizing abstraction' that defers and territorializes 'minor languages'". This would only really be a meaningful observation if we believed humanity were infinite. Only then would the absolute freedom supposed of the Body without Organs be regarded as the grounding of an absolute good. The open-ended nature of the processes of the universe does not presuppose any infinitude of man or of possibility. It indicates a world of nascent, latent, immanent, or unthought *possibilitie*s, but not infinite possibility: only the possible is possible. The 'BwO', however, presupposes infinite smoothness, a body of infinite potential/possibilities in its *absolute* lack of features[7]. Indeed, I think Deleuze and Guattari's invocation of the infinitude of potential as the ultimate good may be a remnant of '68-ism': more of a desire in spirit, than an *actualité*: a kind of Pyrrhonism if you will, or a kind of epistemic nihilism, and as such, an abrogation of the philosopher's responsibility[8, 9].

"The analyst seeks truth; the humanist, meaning". This is, to a degree, what we have been talking about thus far. Perhaps I am imprecise in my use of the notion of compatibility: perhaps I use the term too freely. In any event, where the above is concerned I mean my belief in the non-binary, non-exclusivity of analytic and continental thought. That is, where what I say bears upon the question of compatibility (of continental and analytical thought), the solution is provided by what we may call 'Rational Intuitionism'. However, I also use the term compatibility to mean a compatibility between immanence, transcendence, and metaphysics, given to us through the notion of emergence (in the hard sense). Without getting dragged too far down this rabbit hole, let me illustrate it with an appeal to the emotions. Emotions, for example are all three, they are

[6] Because in an infinite universe, finitude translates as duration and persistence (see for example Bergson 1999). The distinction between the finite and the infinite is that the infinite possesses no (meaningful) duration, and therefore neither persistence nor transience. The infinite therefore is necessarily whole and hence can countenance no change. Only the finite as duration and persistence permits process. I recognize that this appears to suggest that I take infinity not to be contingent when only contingency itself (Meillassoux 2008) and impossibility are not contingent. However, everything that is necessary for that contingency is *already* immanent in the 'there is' (through temporally contingent possibility), and, since the 'there is' (present), and the what is to come are all contained within that part of the *possible* that is contingent, infinity must be that whole – paradoxically, then, infinity must be finite since it is limited by the possible. This means that the finite / infinite distinction is not a useful tool. We should replace finite and infinite with possible and impossible, and between the present and the yet to come. The distinction between the possible and the impossible is not contingent because the impossible is not contingent; the distinction between present and yet to come is always temporally contingent.

[7] If we bring to mind Dragan Milovoanovic's Quantum Holographic Criminology, nothing can come out of nothing. Nothing would emerge from an absence of waves' distortion of space-time, the interaction (and variation of intensity) of which provides the 'stuffness' of the universe. Hence the BwO has *no* potential to generate anything *new* since it must be free of all distortions (ripples/waves/intensities).

[8] Deleuze and Guattari's (1994) *What is Philosophy* states that philosophy is the act of creating *new* concepts.

[9] We should also note that Pyrrhonism is self-defeating. If Pyrrhonism is true, we cannot *know* that there cannot be any knowledge (truth, rules, etc.).

metaphysical, in that they are not *reducible* to physics, but they do *emerge* from *factical physical* processes (i.e. *emergence* is the process of *transcending present factical physical* processes) in which they are *immanent*. Emotions, then, *transcend* the present haecceity of the world whilst remaining 'social facts'. This says to me, (and correct my logic if you will) that metaphysical speech is empty, it has no *speci*-fic content. God is, of course, immanent in man, 'He' is not some kind of physics beyond physics, stuff beyond stuff, 'there-is' beyond 'The There-Is'; he is an *emergent* property of inter-human relations[10]. Hence my compatibilist philosophy is precisely *not binary*: contingency and consistency are shown to be compatible (q.v. Althusser 2006: 163-207) when the truth of the temporally contingent nature of presence is taken seriously. Entities persist (exist) for a duration. The change, or absence of presence, of the entity reveals its temporal contingency hither to *obscured* by its persistent presence.

Siding with Chomsky, in a contingent world (where only contingency is not contingent (Meillassoux 2008)), I return to Levinas, who in a passage entitled Language and Objectivity (TI 209) has this to say

> "[L]anguage makes possible the objectivity of objects and their thematization. Already Husserl argued that the objectivity of thought consists in *being valid for everyone*. To know objectively is therefore to constitute my thought in such a way that it already contain[s] a reference to the thought of others. What I communicate therefore is already constituted in function of others." (TI: 210. My emphasis) [11]

But such universals are temporally contingent: they are (ethically speaking) only our best shot *so far*. Moreover, these imperatives are not fully universal or whole because the kind of territorialization that they represent always has incident de-territorializations. Let me suggest that a reasonable account of a categorical imperative is that it is merely that which we *claim* (defeasibly) may be taken as a (temporally contingent) *reasonable* categorical imperative: that is, one we may reasonably expect[12] people to be prepared to *take as* categorical. Hence it is not contradictory to speak of the project of open-ended striving, and universals (albeit temporally contingent).

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Bruce, you say

> *"Part of my push back is linked to Sartre's (1956) position on essence and existence. The project to come is always transcendence (being otherwise) in any moment of struggle, of humanity. This is what helps to make immanence transformational, yes?"*

Let me say first of all that the *project* is already *present* and that that project is the search for the answer to the question, 'how should we live?' or 'what is to be done?' The answer is immanent in the present and emerges from it, hence the answer *transcends* the present. Only the possible is immanent since to be immanent the entity/process/property must have the power to emerge. Hence immanence (potential) is itself not transformational, but emergence is, since, axiomatically what emerges (the transcendent) is unique[13].

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[10] Emergentism, of course, also provides an answer to the conventional question of compatibility, that of free will and determinism.
[11] This is what Husserl calls compossibility and is, of course, the necessary vehicle of intersubjective communication: its primordial communicability and elasticity.
[12] Suppose, not require.
[13] The ineradicable concatenation of histories ensures this. Tuesday's history has Sunday and Monday in it, Wednesday's has Tuesday, Monday and Sunday. Thursday's has Wednesday Tuesday etc. Every moment has in it the history of *every* past moment, hence every moment is novel: unique.

> *"Doesn't ontology precede essence (including its Platonic forms by way of ethics, epistemology, aesthetics, and the like)?"*

The difficulty for me here is the appeal to Platonic Forms. To my mind the metaphor supposes the ontological (i.e. essence) before the ontic (the existent – the 'real') and therefore an implicit telos[14]. In my view, then, the Ontic must precede the essential (ontological) because essences are all features of human representation of the real involving thematization (classification) thereof. In other words, essences of existent entities are *immanent* in human interaction: community. So,

> *"[i]sn't ontology made manifest (i.e., inhabited and embodied) relationally?"*

Yes. And hence "[i]s there room in your philosophy of ethics (an essence that seems to precede existence) to consider how such reasoning "unconsciously" sets limits on what might be productive desire". Well, first, I would suggest that the foundation of Levinas' ethics is not an essence, it is a 'grounding force'. It is relational, and therefore fluid. It rests, as I understand it, on what we might take (albeit contingently) to be the axiom, that the other's metacognition precedes ours in virtue of the privileged nature of the other's experience of it. Nonetheless, this axiom remains contingent because it is possible that we're wrong: it is simultaneously temporally contingent and axiomatic – it is axiomatic *as far as we know*. "Does this set limits on desiring production?" First let me affirm that determinism *is* because that which is present *is*: what is to come is immanent *only* in an already *determined* 'there-is'. Furthermore, only the possible is possible, hence *all* desiring production is *limited* to the possible. This becomes significant when we say that everything that can happen *is happening right now*. This suggestion (Not Cox and Forshaw's similarly titled (2011) statement) becomes less strange when we take temporal contingency seriously, revealing the difference between potential and capacity (immanence, and the emergence of power)[15]. It is not that limits are necessarily *set*, they frequently just are: absolutely this is so in terms of 'the possible'. Of course, 'power can' but then, that, quite simply is what power is: can. Where it comes from, and how it consolidates is a sociocultural problem (see again my 2013), and one in which power is implicated in our practices of (de)responsibilizing, blaming and forgiving.

dp: The easy answer is that it obviously can, but the devil is certainly in the details. Forensic psychotherapy is fundamentally challenged by the existing constructions of that process, which can hinder any legitimate possibilities for real change. The possibility for a "fluid relationality" is only possible after these calcified hermeneutic structures are deconstructed and re-imagined. "Of course, Plato's escapee from the cave, doesn't so much escape, but is dragged upward into the light…" Don's observation is an important one for forensic psychotherapy, criminal justice and any number of other possibilities. However, though we may be dragged "upward to the light," all too often we prefer to remain chained, happy to live in the familiar isolation these shadows provide. As, Don also observes, to be "dragged into the light," is not necessarily a liberating experience. What then are the implications?

The idea of being "unchained" has interesting implications for the practice of forensic psychotherapy and rehabilitation; however, this unchaining must implicate both sides of the equation: at the micro level between individual and psychotherapist and at the macro level

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[14] The notion of the 'form' supposes a perfect model that is to be striven for, with the assumption that it may be achieved: our *purpose*, then, is to achieve it.

[15] Illustrating this idea to my students, I ask them if they can go to the shops. They all reply in the affirmative. I then ask them why they are not at the shops. The say, 'because we are in this lecture'. I then rephrase the situation by saying 'So, you ***can't*** go to the shops, because you are in this lecture theatre – yes?'. The issue is one of temporal contingency, in other words the difference between potential and capacity.

between society and crime production. For example, when focusing on blame, responsibility and forgiveness as it relates to the forensic therapeutic frame, how are these various subject positions configured? Does blame or blaming remain exclusively situated on the side of the therapist, who may place blame on the individual, which by implication absolves the therapist—and indirectly, the social world as well—of any responsibility in that exchange. All too often, therapeutic failures within the context of forensic psychotherapy are always blamed on the client. If only the client was willing to do this or that, if only the client was not a habitual criminal or habitually unwilling to change their behaviour, etc., etc… In most cases the blameworthiness of the client is so absolute that no other possibilities are even offered. In fact, if the client was to make such a charge, it would be quickly labelled as excuse-making and quickly ignored. Additionally, it is equally true that certain clinical staff and administrative agents, prefer the cave and its limited and one-sided point of view.

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dc: If I may, I would like to engage with some of what David has said above. Should the only real question for the academy concern how we should live, then criminology becomes a particular kind of applied ethics (see my responses to Pyecroft and Pavlich – this issue). Whatever answers we arrive at through our use of the tools of philosophy are only of any use if we are able to use them to inform praxis. Hence, David, I think your observations and questions are very important. Let us then speak of the relationship between therapist and client, and between blame and forgiveness.

It is my belief that the various subject positions of the forensic therapeutic frame (as are all subject positions) are constituted as they are through the inevitable slippage/elasticity between meanings inherent in symbols, and the (similarly inevitable) exponential increase and intensification of the territorialization of the power to control those meanings (Me 2013). Power means 'can', in this case, that means the therapist's power to define the situation (as the interactionists would have it) because of their relationship with other and perhaps greater powers. That is, in the semi-juridic situation of forensic psychotherapy the client is defined by the 'system' (large, practiced, complex, old, dense assemblage) that harbours and defines the client/therapist relationship, as one where the client incapable of laying claim to their own status. This is a truth frame. The client is already blamed and attempts to question the justice of that situation reveal them as more surely a problematic force in need of correction – or at least help. Because of the truth of *privi*-leged access to one's own mental states, we can assert that they exist for themselves as a person axiomatically unavailable to the judgement enacted upon them. That is, as I keep saying, they are judged in their absence; the blamed is never the one who is blamed. One of the things that is difficult for the therapist is that this situation, which has them reinforcing the foundationless imposition of a subject position upon the client, is not correctable because of the immutability of the privilege inherent in self-reflexivity. This, as you point out is Levinas' observation that our perception of the other is always limited and incomplete. This is one of the major reasons why I suggest in BRP that no one has the standing to judge or to blame. Of course, juridically the Judge has standing to judge, but that is because, precisely inasmuch as they cannot judge or interpret the subjectivity of the accused, they do, can, and are permitted to, interpret legal statute and measure its similarity with the offence under consideration. The therapist is not in this position.

One of the upshots of this is as follows. If one cannot blame the subject – one's client – then neither does one have standing to forgive. It is offensive, with strong overtones of arrogance to forgive someone who has not transgressed. Moreover, if we do not judge then we have no need to forgive. Now, one may say that this person has already been adjudged to have transgressed. However, we know that a juridic judgement and the phenomenological judgement of another subject are not the same thing, and when I say we are not in good standing to blame, or to judge,

I mean the phenomenological judgement of a subject. In this kind of judgement, the offences *are mine*: they arise *as* offences from *my* subjectivity. In the relationship between client and therapist both forms of judgement are present. The client is *placed* in the relationship with the therapist by juridic judgement. The adjudgment that the client has behaved improperly in some way in their relationship with the therapist, by dragging their heels, or making excuses for example, lies in the realm of judgement of the subject, and this, as we have already said is illegitimate because of the nature of privileged access to our own states of mind. The therapist must make no judgements concerning the client's reasons for behaving unreasonably or unconstructively; they may not blame, they may not forgive, they can only strive to understand. Here might lie secret of the kind of singular/plural community that I think MacIntyre fails to achieve.

dp: Thanks, Don, for your thoughtful response. I think you're correct in observing that the therapist plays a central role in constructing the meaning of the frame of forensic psychotherapy. I have always related to my clients, whether in an outpatient forensic setting or within the context of a maximum-security penitentiary, as I do my private pay clients now. The phrase "semi-juridic situation of your therapy," probably needs to be amended to the juridic situation of your therapy. I'm not sure that there is anything indirect about this process, which is one of the huge challenges that needs to be recognized and minimized as much as that is possible.

Your emphasis on "Power can," implies something that is similarly not accurate at least as it applies to forensic psychotherapy. The reality is that if this "Power can," phrase applies, it is the power used against clients… My stance with my clients and my supervisors and prison administrations was a rather simple one: I work from a phenomenological humanistic perspective and that is the only way I intend to work. I stated this position during an interview for a psychologist specialist job at a Pennsylvania penitentiary. My immediate supervisor asked me to describe for the Programming Director of the prison, what it meant to work humanistically with clients. After my brief description, I told him that I understood that this may not be the type of therapist that he may want, and if I'm a bad fit then perhaps for everyone's sake, I probably should not be hired. His response was, "what if there's an inmate that I believe needs to be involuntarily committed and you don't agree." My response was, "you're the boss." His response did surprise and may have misspoke, but I have no way of being sure of that possibility. My surprise was over the fact that I was much more likely to seek a commitment order for an inmate, rather than fight the same.

What I have always attempted to do is try to decrease the degree to which the system is in the consulting office. The forensic psychotherapeutic process is structured by two overlapping contexts: the relationship between system and inmate and the relationship between the two human beings in the room. Though the fact of the influencing presence of the criminal justice system can never be ignored, the power of the therapeutic relationship can help to mediate these influences with varying degrees of success.

During my work as a Psychological Specialist with the Pennsylvania Department of Corrections, I was responsible for a cell block of approximately 150 men. Given that participation in ongoing psychotherapy was not required by the penitentiary, but strongly encouraged by my supervisor, I held regular sessions and rarely had an open time slot for approximately the three years I worked at that facility. Individuals would request that I see them in therapy and individuals could attend for as long as they wished. The beginning session sought to identify some initial therapy concerns and the process went from there. These issues could be related to administrative concerns, cell block concerns, concerns with their family, etc.

Concerning blame and forgiveness… I'm not sure that the role of the psychotherapist is to do either. I think too often people get caught up in that dyad, which is unhelpful and not at all authentic. I have worked with individuals who have been involved in very difficult situations, incredibly violent situations, but I can't say that blame or forgiveness was ever part of these discussions. If blame and forgiveness be needed, it must be configured from the perspective of

the client. Therapists often fall into the trap of questioning the client when the client's narrative seems incongruent with therapist's experience. Blame becomes easy when it is wrapped in a type of ignorance that references to be open to the experience of others. I recall one of my very first psychotherapy clients—either the first or the second, I don't recall—and I made the mistake of reading the client's case file before our first meeting. In that file was a letter from the penitentiary psychologist that explained in some detail, why this individual would not benefit from psychotherapy because of his angry and combative relationships with authority and would likely return to the penitentiary. We meet regularly for a few weeks and after around a month I decide to share with this letter. Before giving him the letter, I stated, "Read this letter and please tell me who this guy is because he is not the individual with whom I have been meeting for the last few weeks." He carefully read the letter and handed it back to me and stated, "Dave, I didn't treat them with respect because they didn't treat me with respect." Not only was this individual a successful discharge some six or seven months later, he returned to therapy approximately one year later when he felt he was starting to have potential problems with alcohol.

With this individual there was no need for blame or forgiveness, our focus was on respect and the meaning, and the understanding of his life from his perspective. Now, it is certainly true that during therapy, a client may question if the therapist is blaming or judged them. The resolution to this problem is working out the issue with the client and try to determine with the client or your own therapist if this is occurring or if the dynamic is situated more within the context of the client's shame. I think this occurs in the forensic context, in part, due to the blaming attitudes that are all around.

When you say:

> *"The therapist must make no judgements concerning the client's reasons for behaving unreasonably or unconstructively; they may not blame, they may not forgive, they can only understand."*

Though the easiest response would simply be to agree by observing that understanding is the only goal for a successful therapy, more probably should be said. I would not even hold too tightly to this idea of behaving unreasonably or unconstructively, given that context is everything. Reasonability and constructive action are meaningless, when removed from the specific social context from which they emerge. Reasonability and constructive action are a way of taking up the world from one's specific "thrown" reality. From such a distant perspective, it really is impossible for someone to determine what is reasonable and what is not, when their experience is so different. I have shared with clients from time to time when told a particularly difficult set of details that "I'm not sure that I would want to live like that," but the observation emerges from my own personal judgement and perspective that has not been constructed from the actual daily circumstances of lived-experience that makes such an action reasonable.

dc: In the UK we have a saying to the effect that one shouldn't 'try to teach one's grandmother to suck eggs' (grandmothers already having, apparently, an exceptional skill in this regard). I have no desire to do that where your psychotherapy is concerned David: I have no understanding of the practical reality of psychotherapy. I do not mean to subject your personal practice to any kind of questioning save that which may be sustained as an inquiry into the subjective-juridic-psychotherapeutic relationship in general. Indeed, I think that we may actually be singing from the same hymn sheet.

If I read you correctly there are one or two issues in my response, above, which you wish to challenge, and then you go on to give evidence of your experiences as illustration of the way you actually work. If I may, I would like to start with those issues in turn. First, to my mind we are not a million miles apart when I use my phrase "semi-juridic situation of forensic psychotherapy". I believe you recognize this situation when you say

> *"The forensic psychotherapeutic process is structured by two overlapping contexts: the relationship between system and inmate and the relationship between the two human beings in the room."*

That is, it is the juridic system that throws the psychotherapist and their client together, and, of course, the reason is that the client has been created a subject of the juridic system by that system itself. This is part of the deterministic (thrown) nature of the relationship. It seems to me that one of the roles of the therapist is to help realize the projection of the client: their authentic[16] 'stepping over', and the therapist is right, of course, to speak normatively in their desire to minimize the impact of that juridic relationship in their enabling practice.

The second issue that you mention with regard to my response is what you describe as my "Power can". This may seem prim, but what I actually say is 'Power equates to can', that is, power is merely capacity. Of course, it *follows* then, that 'power can', but this is not the phrase that I use. My phrase distinguishes use of the word power from potential[17] and from its normative uses. You say above, of power, that "it is the power used *against* clients" (my emphasis). When I speak of power in my terms, I allow the fact that power is not always negative; this is rarely the case in critical criminology where accounts of the negative effects of the power of others is all that there is. It must be recognized that it takes significant power to mobilize a campaign for clean water in Yemen for example. You speak of resisting the system, and when you do resist, you have power to do so. This doesn't mean that your resistance is necessarily successful, but you *are* resisting, therefore you can resist – you *can* exercise the power to resist[18]. A third issue appears to be my response to the therapist's possible judgements concerning a client's behaviour. My assumption about the actuality of this kind of judgement I drew from your earlier,

> *"Does blame or blaming remain exclusively situated on the side of the therapist, who may place blame on the individual, which by implication absolves the therapist—and indirectly, the social world as well—of any responsibility in that exchange. All too often, therapeutic failures within the context of forensic psychotherapy are always blamed on the client. If only the client was willing to do this or that, if only the client was not a habitual criminal or habitually unwilling to change their behaviour, etc., etc… In most cases the blameworthiness of the client is so absolute that no other possibilities are even offered. In fact, if the client was to make such a charge, it would be quickly labelled as excuse-making and quickly ignored. Additionally, it is equally true that certain clinical staff and administrative agents prefer the cave and its limited and one-sided point of view."*

And hence my – "adjudgment that the client has behaved improperly in some way in their relationship with the therapist, by dragging their heels, or making excuses for example".

There are one or two issues to which I would like now to (re)turn. On more than one occasion Bruce has asked me to relate my (compatibilist) philosophical assumptions to politics, and to do this I will address again the issues of ethics, power, and resistance. The substance of politics has its roots in the failure, as we may see it, to right the wrongs we perceive: our persistent failure to address the human deficit. In this respect politics is separate from governance, and hence, there is always a certain interstice between state and polis within which resistance can form. That is, spaces within which Marx's 'true democracy' can develop in the association of free human

[16] I do not mean to suggest by 'authentic' an autarchy, but merely that aspect of being singular-plural that refers to that which is one's own.
[17] I would like to issue a *mea culpa* here. In my (2010) in these pages, I entered into a discussion of 'power and its exercise'. It is my current belief that I was wrong (pp. 41-42). Power is only capacity, not potential, since all potential is limited: potential is 'can't' until some 'if' is satisfied (I could if … means I can't until …).
[18] Resistance is a peculiar case, because one cannot *attempt* to resist, one either does it or one doesn't; Should I attempt to resist, I would be resisting. I may, for example resist the use of violence from another and still be pushed over. I have not failed to resist; I have failed to stop the other person pushing me over. I was not physically powerful enough to stop him, but I was still resisting them.

beings against the state (Marx, 1991, pp. 958-959). These two poles of politics are reflected in the two most common uses of the word: politics as the operation of the state – the art of disguising the act of government maybe, for example, and the attempts to right the wrongs of that state based politics – the site of activism, and resistance perhaps. The former is the location of the classical study of politics as the study of modes of governance, and the latter, amongst other things, is the location of the theory and praxis of critical criminology in its broadest terms. I think, Bruce, when you ask me about politics, you ask me about the latter. However, I don't think the two are divisible.

Buried in this formulation is a truth about resistance. As I have suggested, we can always resist, if not necessarily successfully. Resistance may be futile, as the aliens of science fiction tell us, but it is always possible. Inherent in this realization is the truth that it is in the nature of power that it can never be overcome. We may resist it, we may succeed, and it may fail, but in that instant it reveals itself not to have been powerful in the first place[19]. Whenever our resistance is successful some imagined power or other has evaporated. An example of this is the recognition of the inevitability of the roots (and therefore the inevitability of some form) of capitalism. Capital *can* be exchanged for almost any other kind of capacity and, as Marx points out at the beginning of *Das Kapital* it is a tool of exchange of variable, rootless[20], value. One of the aspects of the variability of the value of capital (money) is that it is able to harness the benefits of scale and this means that the inequalities in which it partakes can increase exponentially. Since capital is a tool for the exchange of capacities, it is, then, ineluctably, a tool of the exchange of power. Hence capital capitalizes: by its own nature it multiplies itself without any effort. This is not a battle that can be won, something that can be overcome: since total equality is *congruent* with identity, and identity is impossible, the effects of capital in expanding injustice can only be moderated not eradicated[21]. This near universal capacity for the exchange of power through the capacity of capital clearly manifests itself in the realms of justice; not just social justice but 'criminal justice'. This is especially noticeable in the 'Prison Industrial Complex' (Schlosser, 1998) in operation particularly in the United States.

Also buried in this political dyad are two conceptions of the political subject. On the one hand the property-owning self-positing autarch, on the other, the subject of existential phenomenology, to my mind best expressed in the subject of infinite responsibility and commitment of Levinas: the latter the site of political democracy, rather than the former which is the site of political theft. Many are the communitarians that have revealed the mendacity of liberal individualism's claim to the good, but these communitarians have simply exchanged the autarchic human for the phylarchic community. This is particularly notable in MacIntyre's Aristotelian conception of 'goods of excellence'. To put this another way, the autarch is said to be possessed of aseity against which they cast others *as* others. However, the community *also* defines itself in terms of those others it casts *as* others. In this political interstice, then, between the liberal individual and the 'bottom up communitarian' we must strive for neither autarchy, phylarchy, nor anarchy, but in recognition that we are *simultaneously* both singular and plural, a holarchy.

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[19] It is important to note that power is not a quantity – we cannot be more or less powerful in any particular regard (we may have more or fewer capacities), we either have this power or we do not, we can do some thing or other, or we cannot. It makes no sense to say we can *more or less* do that thing.
[20] That is, not anchored in 'use value'.
[21] Hence, when politicians speak of social equality they actually only mean similarity, and the location and degree of that similarity is political, or *more or less* arbitrary. The acceptable location of those similarities and inequalities are, in the West, it is claimed, determined by democratic processes. However, it is evident that what constitutes the demos is also more or less arbitrary, and most certainly subject to the capacities permitted by capitalist exchange.

The question, then, is what would that holarchy look like? and the answer is, I believe, that it should be led by the question 'What do they need?' We have seen much evidence of this kind of activism during the Covid19 pandemic, where local communities have taken control of care for needy members of the community in this gap between traditional activist politics and state (in)action. The question, What do they need? places the Other in the infinitely asymmetrical relationship with the subject found in Levinas. This is the 'communitarian, i.e. 'plural' side of the holarchy. The 'liberal individualist's' part, the singular, the product of the Same, begins with the question; What can *I* do to mitigate their need? Both of these positions are compatible with (if not derive from) this radical privilege of the Other in Levinasian philosophy.

The upshot of all this for criminal justice is that my call for us to desist from blaming becomes a practical (political) possibility. Where the interstice between the two kinds of politics is the location of the immanent – of potential – where new capacities can emerge that are neither prohibited nor provided by the state. These are new imaginings that transcend our current conceptions of *'our best shot so far'*[22]. The good remains immanent in humans despite the impossibility of the *present* being other than it is. This recognition should propel us more toward Levinas' asymmetric relation to the other, a *motiv*-ation toward a different way of living with each other that can moderate the effects of capitalism, but more pertinently to these pages, a different way of pursuing the juridic. Prison (indeed punishment in general), it has been argued most powerfully, is almost never justified[23] (Honderich, 2006). Should one accept my suggestion in *Blame Responsibility and Peacemaking*, that Levinas' substitution means that all offences of the other are in fact *mine*: they arise *as* offences from *my* subjectivity and practically from my failings (as, of course, in the famous Dostoevsky dictum concerning guilt), then punishment is never *deserved*. Should I imprison for the purpose of incapacitation, then, I must recognize that this is a hardship that I impose undeservedly on the imprisoned, and our prisons must be as comfortable and dignified as is humanly possible. We must recognize, contrary to Kant's injunction, that our prisoner is being used as a means purely for *my* benefit nottheirs. Hence, we must also recognize this of the prison; Prison is the place where I incarcerate my brothers and sisters for *my* failings.

[22] See my discussion of universals, contingency, finitude, and temporality above.
[23] The only justified reason offered for imprisonment is for incapacitation. It should be noted, however, that even the notion of incapacitation is sufficiently flawed for its justification to be significantly limited to very few cases.

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