

BEYOND GOOD—EVIL: A PLEA FOR A HERMENEUTIC ETHICS

ADI OPHIR

I

Evil is no less widespread than money and no less dangerous than the worse things money can buy, yet it is noted, predicted, and accounted for like changes in the weather, and it is no more thought about, and even less understood.

Recently, thinking about evil has played a certain role in the growing body of literature and research related to the Holocaust, with some illuminating results. That the systematic extermination of Jews and Gypsies is an archetype of evil is self-evident. Even the worst revisionist historian can dare no more than deny the facts or compare them with other forms of horror, e.g., the Gulag. In its less wicked face, revisionist historiography forces us at least to ask how absolute or unique the Holocaust was, and what made it possible as the terrible and unique form of evil it was.¹ Others who study the Holocaust and encounter its survivors are no less preoccupied with personal and collective ways to cope with memories of the horrors: How much, and how, ought one to remember, tell, and retell? But the presence of evil in Nazi Germany is so overwhelming that it hardly allows any attempt to problematize evil and contemplate its nature in the context of recent European history. On the contrary, people tend to measure the forms of evil in other contexts against the unquestionable presence of evil under the Nazi regime, which has been conceived as the form of absolute evil. This comparison often forces distorting analogies that only mask or block any genuine attempt to think evil as such, and to think it in different historical contexts and in less extreme situations,² and less extreme situations are terrible and numerous enough.

Modern political philosophy, however, has paid little attention to the notion of evil.³ Its tendency to shy away from any serious attempt to contemplate evil has deep roots. Ever since Plato, and more so after Plotinus and Augustine, evil has been defined as the privation of the good,⁴ and its account has usually been

mediated through the concept of the good. In the metaphysical tradition, evil is the negative sign of an ever absent presence, the good;⁵ in the utilitarian tradition, it is a sign of a contrary good, always interchangeable with it: "What may be predicated of each may, by an appropriate change in the context, be with equal truth and propriety predicated of the other," for "whatever be the shape in which it is possible for evil to show itself, the exclusion or removal of it is a correspondent good," and vice versa.⁶

There have been a few exceptions. In Hegel, the contemplation of evil resulted in a metaphysical *Aufhebung* that explains evil away.⁷ Schopenhauer⁸ makes evil primordially omnipresent, a cosmological first element deprived of any particular political significance, which thus allows him to end up in a vain gesture of "pessimistic" political escapism. Nietzsche's genealogy of evil is inseparable from that of the good, and it leads toward a too easy (and dangerous) identification of evil with the mob, the "Plebian," or, in general, with that which is "all too human" to be desired by a "free spirit."⁹ Perhaps the most noteworthy exception was Montaigne, who "put cruelty first"¹⁰ and seriously considered different forms of evil independently of the state of their positive elimination. Montaigne placed the infliction of bodily pain on top of all other vices, and was therefore capable of contemplating evil with no recourse to the notion of the good or to a Christian God who provides it. He could articulate different conceptions of evil relative to changing moral sensibilities, whose psychological, cultural, and historical-context dependence he so well understood, yet without relativizing his basic moral stand: uncompromising condemnation of cruelty as the vain infliction of excessive pain upon another. It is from him that we may learn most when trying to rethink evil in its modern context.¹¹

As it has paid little attention to the notion of evil, modern political philosophy has not been very interested in the notion of the good either. Kant rehabilitated a suspiciously transcendent "highest good" (*Summum Bonum*)¹² only after establishing the proper boundaries of critical moral discourse and grounding its guiding formal principles. His contemporary heirs, like John Rawls and Jürgen Habermas, give up the second half of his second Critique with its ramifications in the third and in the lesser writings. They rather set out to develop procedures for rational competitions among rival conceptions of the good life, of the goods in life, and of who deserves to take more of their share. The emphasis put on the concepts of justice and justification in contemporary moral discourse is due, in part at least, to that inherent suspicion toward any theoretical position that claims to represent the good itself. Thus, Rawls's theory of justice gives the good a marginal position and a secondary role. The good is shown to be "congruent" with justice, but it cannot ground a theory of justice (as it does, e.g., in Plato's *Republic*), or even serve as its regulative idea, the horizon toward which all procedural arrangements aim (as may be suggested by Hans-Georg Gadamer's

notion of *die Sache*),¹³ since there is not, and need not be, any agreed upon concept of the good but only multiple, conflicting conceptions of the good, hence too many horizons at which to aim.¹⁴

If this is the place of the good, why should a theory of justice bother about evil? Apparently it should not, if it only pretends to be a theory about the just distribution of goods; but in fact it should, at least as long as it claims to be a theory of distributive justice, for the simple fact that society distributes evils as well as goods. No theory of justice takes account of this fact, I believe. An argument about the independent existence of mechanisms for the distribution of evils lies at the core of my attempt to revise and limit the scope of both reconstructivist and communitarian ethical conceptions of justice. The distribution of evils, as well as its political structures and social mechanisms, I shall argue, are neither transparent nor self-evident for most social agents. This places hermeneutic ethics at the center of moral argumentation, presenting it not as a necessary supplement, but as a discursive framework and a regulative idea. At the same time, the conflict between tradition and universalization is transcended without being resolved, as both attempts to appeal to a shared tradition of values or to universal principles are situated in the context of concrete ethico-political struggles.

In order to argue this point further, let me take as my point of departure the general framework of an existing theory of distribution, Michael Walzer's theory of complex equality and pluralistic, "multidimensional" justice, as developed in his *Spheres of Justice*.¹⁵ Walzer's theory may serve as a good starting point, (a) because his basic picture of a multidimensional society seems to me more adequate to modern social reality than other models presupposed by rival theories of justice, Rawls included; and (b) because it is, at the same time, all the more lacking, precisely because it disregards sophisticated mechanisms for the distribution of evils. Walzer is right in his attempt to represent society as a multiple system of distributive spheres, in which goods are conceived, evaluated, created, and exchanged according to a more or less autonomous logic of relations which prevails in each of the distinct, yet interrelated spheres.¹⁶ In what follows, I presuppose this picture of social reality without arguing it further, trying, however, to show the particular sense in which I think it to be a deficient picture.

II

"Human society is a distributing community" (SJ, 3), says Walzer, and "distribution is what social conflict is all about" (SJ, 11). Distributive principles are supposed to control, constrain, and direct the movements of goods people conceive and create, as well as the means needed for, and the social positions involved in, the conception, creation, acquisition, and exchange of these goods.

Naturally, means and positions are also goods of a sort; they are exchanged, distributed, acquired, and lost through civil or violent conflicts. Walzer's original contribution is, as mentioned above, his conception of society as a cluster of relatively autonomous distributive spheres (of, e.g., economic goods, political power, membership, knowledge, honor, etc.), among which there are rules of conversion and exchange. Goods are exchanged within some spheres according to more or less defined exchange values. Goods are convertible across spheres, if possession of enough goods in one sphere can provide easy access to the acquisition of goods in another sphere while bypassing the second sphere's rules and relations of exchange. For example, when the prince enjoys the right of the first night, political power is converted into sexual pleasure; when students are exempted from military duty, cultural capital is converted into release from danger and effort, and gain in free time. Tyranny is defined as a social system in which the possession of a dominant good (e.g., political power) is convertible across the spheres (e.g., to money, love, honor, etc.) (SJ, 19, 315–316). A pluralist democracy, on the other hand, maintains the autonomy of the spheres, allows one to acquire or lose goods in one sphere independently of one's situation in the other spheres. A theory of justice, according to Walzer, must not only account for just distribution, but also for the different spheres where distribution takes place and for the just interrelations among them. This is not a small task; it takes no less than the systematic attempt "to map out the entire social world" (SJ, 26).

But the entire social world includes regions of "evils," not only spheres of goods. It is not enough to describe the "central process" to which a distributive theory applies as one in which "people conceive and create goods, which they then distribute among themselves" (SJ, 6). For people also conceive and create "evils," which they then distribute among themselves, especially among others; and they sometimes also distribute evils not conceived of before, which they then conceptualize, recreate (or rather reproduce), and distribute. Much like goods, the production, distribution, and reproduction of evils are done in more or less regular patterns within more or less regulated fields of socio-political-cultural interaction.¹⁷

Equipped with Ockham's razor, quick readers would certainly tend to get rid of the new cluster of vaguely defined "regions" added to an already crowded multiple system of social "spheres." The following example may demonstrate the apparent redundancy. When a government allocates money, say, for transportation infrastructure, when it allocates only this amount and invests it only in those districts and kinds of traffic, it certainly distributes hazards of car or airplane accidents among its subjects. A government may even be blamed for letting a predictable number of members of a specific group, say, Harlem's pedestrians, die by not investing enough in their safety. But this is done by the

same system that distributes the goods one may call “transportation safety,” and it is utterly useless to double that system by a ghostly one that distributes, say, “transportation mortality.”

But who says which is the ghostly system here and which is the “real” one? At the very least, it can be argued that even the mere inversion of perspectives—which allows one to look at the same social mechanism from the point of view of the evils rather than of the goods it produces and distributes—is worthy of serious consideration. In some contexts, shifting perspectives is at least a matter of convenience. Walzer himself finds it more appropriate to deal with certain distributive spheres in terms of the “negative goods” distributed there. Military duty or grueling work in a communal kitchen in an Israeli kibbutz are examples discussed at some length in terms of “negative goods” (SJ, 165 ff.), stressing the burden or suffering which has to be shared in justice, without trying to resort to their privation (exemption from military service or the number of days a year a kibbutz member is free of “kitchen duty”). But is it not a matter of sheer convenience? For after all, within the same distributive sphere, goods and their negatives are perfectly convertible, by definition.¹⁸ And if this is the case, a theory of distributive justice need not bother with “evils,” let alone with the dubious notion of Evil.

III

But this is not the case. Despite a certain overlapping, some “spheres of evils” are as autonomous as some of the spheres of goods; they are conducted according to their proper logic of interrelations, and exchange and distributive positions, and cannot be described in terms only of the allocation of “negative goods” or the systematic deprivation of positive goods. It is not that the removal of single evils cannot be described as negative goods; rather, those evils are not privations of negative goods regularly distributed in a sphere of their own (like membership, authority, or material goods). The symmetrical relation between good and evil may work only when an object is abstracted from the context of its production and distribution. The symmetry does not hold for the entire sphere. When an entire sphere is concerned and accounted for, it is impossible to conceive one (a sphere of evils) as the privation of another (a sphere of goods). In the “negative” sphere, the regular distribution is a distribution of evils; goods are the exception and they are conceived of as privation of evils. The removal of evils may be described as negative goods, but the presence of evils is not dependent on the systematic distribution of a particular type of goods that are now absent. Evils are experienced by individuals as objects with a presence of their own. They may remain invisible when their distributive sphere is looked upon from good’s point of view. But the asymmetry goes much further: evils

may be produced and distributed across several, more recognized spheres (of goods); within their proper sphere, their economy may be based on principles entirely different from those which guide other spheres (of goods); and they may be at stake in distinct social conflicts, different from those which characterize the competition over (positive) goods. In order to argue this point fully, we need a developed "discourse of evil"; a few examples may at least illustrate where the argument goes.

(1) The modern prison is one case in point. It is a sophisticated mechanism for the distribution of one form of punishment, i.e., denial of civic liberty according to strict rules. But, unlike other burdens the state distributes among its citizens, whether universally (like taxes) or particularly (like fines), a variety of other evils besides the deprivation of liberty is being distributed in the modern prison system. This happens not because the people who run our prisons are especially wicked. It happens because the mechanisms of power relations within prisons are so constituted that they create positions from which power can be exercised, and bodies and souls can be disciplined and manipulated, "shaped" and reshaped, sometimes tortured, according to rules and regulations, but not according to the law and the system of distribution which it dictates. Distributing the denial of freedom, the law determines only the term of imprisonment, or at most it may state the type of prison; all the rest belongs to a different distributive sphere, animated by wholly different distributive mechanisms. In this respect, at least, Michel Foucault was right when he said that prisons resemble factories, schools, barracks, and hospitals, which, in turn, all resemble prisons.¹⁹

All the disciplines that Foucault describes are well-structured and specifically located distributive mechanisms that work alongside and behind the larger and more visible, recognized spheres of power, law, and the distribution of goods. They distribute "things" which cannot be articulated, conceived, or acquired in the visible spheres, yet without which those spheres cannot function. The "things" distributed are not necessarily evils. They are first and foremost positions from which power is legitimately exercised in various ways, and which, purposefully or not, allow individuals to acquire goods and inflict evils. The orders of power in and around the "disciplines" have to be brought to light and accounted for as an essential stage of any attempt "to map the social world."

The distribution of evils that these orders of power allow and foster must be deciphered and analyzed in terms specific to the system of social interaction involved, and to that which is produced and exchanged within it. In prison, that which is produced and exchanged are means and forms of suffering and modes of behaviors, as well as means and forms of pleasure and modes of knowledge, all of which are peculiar to the system of power and enclosed within its walls. A form of suffering, e.g., the crowdedness of one's cell, is no less an object of discourse and action within the prison than a form of pleasure, e.g., the length

of time one is allowed to go for a walk outside one's cell. Isolated and taken out of context, crowdedness may be accounted for in terms of deprivation of privacy; time outside one's cell may be accounted for in terms of time inside. But what really matters here, and can be grasped only within the context of prison as an entire system of power relations, is the manipulation of space, time, and bodies which creates spare space and outside time as positive objects, and crowded space and inside time as negative objects, both to be distributed among the inmates. Here both goods and evils are distinct objects, spoken of, perceived, and acted upon by all social agents involved as separate objects, each with its own presence, positive and negative attributes, without the redundant, distorting translation of evils into negative goods. Both goods and evils are produced in order to control and manipulate individuals, not in order to be consumed, enjoyed, or used by them for their own purposes. Looking at the system of power in the prison only from the point of view of the goods it creates and distributes means overlooking both its manipulative character, the techniques it uses, and the specificity of the objects it creates.

(2) In the autumn of 1988, dozens of Palestinian children living under Israeli occupation in the West Bank and Gaza were denied their on-going medical treatment in Israeli hospitals. The Israeli military government justified this unusual act by referring to the uncivil, sometimes rebellious behavior of adults and youngsters in those children's families; due to their unlawful behavior, the children of these families lost whatever right they had to receive the special medical care provided to the Palestinian population by the military government through Israeli hospitals. One may well reconstruct the distributive sphere of state provisions in the occupied territories and demonstrate how it accords with this or that theory of distributive justice. But to remove a five-year old child who suffers from severe kidney disease from a dialysis machine, or to deny a leukemia patient his chemotherapy (when there is no sudden shortage of medical equipment) is certainly evil. If conceived of as a simple privation of a good, this evil is deceptively abstracted from the complex system of power which was established through the Israeli occupation and from the distribution of evils for which that system is responsible. The occupying regime may be justified in general—when the distribution of goods is concerned—but it produces and distributes evils nonetheless. It does so in quantities, ways, and forms that no account of the distributive spheres and their complex interrelations may exhaust, let alone justify.

Occupation,²⁰ not only or particularly the Israeli one, is a classic example of a multiple system of power which works across the spheres of distribution of goods while producing, distributing, and reproducing its own evils in more or less regular patterns. Most democracies today are involved with systems of power less conspicuous than a regime of occupation, but no less sophisticated in

the ways they cross distributive spheres while distributing, often exporting, their own evils. But, like the prison, a state of occupation may be more conspicuous than, but not necessarily radically different from, other evil-producing systems of power. For Foucault, prison was a kind of metonymic figure through which he tried to think about his present social reality.²¹ From an Israeli point of view, the occupation may play the same metonymic role.

(3) The homeless in New York are deprived of one particular kind of goods distributed, not very equally, among their fellow city dwellers. But the evil they suffer cannot be reduced to, or accounted for, by this particular lack alone. The social system that produces their homelessness is not simply the economic system which produces less apartments than families or which fixes their prices too high. Homelessness is an effect of the economic system (specifically, of the real estate market) but not of this system alone, and it affects one's position across the distributive spheres. Being homeless is being at once deprived of shelter, of a place to make love and raise children, of a place to recreate properly and socialize decently. The homeless are not merely poor citizens who enjoy and practice the rights for elementary education, equal voting, and free marriage, only they cannot afford to have access to one of those goods most other people have. Homelessness seems a unique social object; its modes of production and distribution and its peculiar presence at the heart of an affluent society call for an attempt to reconstruct its peculiar mechanisms of power and patterns of reproduction within the framework of a social grid different from the one that accounts for the distribution of goods or their privation. In order to reconstruct that grid, and perhaps before looking for the distribution of material goods, labor, and capital, one needs to look for open and blocked roots of exchange and conversion of goods, for certain needs that were cultivated among those more vulnerable to homelessness, and for others that were suppressed. To produce homelessness in such quantities in a rich, predominantly Christian society takes a certain coordination and cooperation of several distinct spheres: school and market, court and municipality. Unlike the prison or a state of occupation, it may be that, even from evil's point of view, no independent sphere of distribution may be reconstructed here. Yet the presence of evil cannot be reduced to the logic of any of the recognized spheres of goods; it presupposes a *sui generis*, complex social mechanism that transcends any of them. Also, much like understanding a state of occupation or what's really going on in and around prison, understanding homelessness necessitates an attempt to remap an entire social world. One needs to deconstruct the discourse of both participants and theorists, to suspend or question existing social categories (of socio-economic scales, desert and right, life expectancy, health situation, etc.) and look for a new totalizing point of view. Only then and from there would the production and distribution of evils appear in their own right, and would evils appear as proper objects of social and moral discourse.

What these three examples make clear is that evils are not merely the infliction of suffering or pain, no more than goods are the sheer means to achieve pleasure or joy. Evils have a presence of their own; this fact, at once social and moral, should be taken seriously into consideration in ethics and social theory alike. Theologians used to distinguish between social and natural evil; however, they often tried to develop a coherent theodicy, justifying a world that includes both. Natural evils—the death of an innocent child or a catastrophic earthquake, as far as they are unpreventable (precisely how far they should be thus conceived is a question which must remain open)—lie beyond the realm of the evils society distributes. Preventable suffering, on the other hand, is social and political through and through. Its distribution is what social conflict is mainly about (not entirely, for there are goods whose distribution bears very little on the prevention of suffering), and it always involves both goods and evils. Both goods and evils are social products lying at the core of political discourse and at stake in political conflicts, but they are at stake in distinct, if interrelated, ways. They belong to two distinct “positivities” of discourse.²² For suffering is never simply the privation of pleasure, any more than evil is the privation of good or good of evil. The presence of evils serves me here as a basis for the next stage of my argument.

Like goods, evils are social products, socially endowed with meanings shared by a certain community. But here the analogy ends. Goods are possessed, acquired, searched, and fought for, because they are conceived of as beneficial or good for the one who possesses them, as enjoyable for themselves, or as useful for the sake of other things one values. Evils are inflicted and suffered for the advantage of another—Thrasymachus was not utterly wrong, after all—or for the advantage of no one in particular. The economy of evils is not necessarily an economy of rational investment and maximization of profit; evils may be by-products of otherwise rational investments, and those who enjoy these investments should not necessarily be aware of the suffering from which they benefit.

This is precisely what differentiates evils from the mere privation of goods and establishes them as *sui generis* social objects, which means *eo ipso* moral objects as well.²³ The mere privation of goods may be a source of suffering, but this suffering may be conceived of as necessary for the attainment of some goods that the bearer of suffering would finally possess. On the other hand, evils are sufferings or disadvantages²⁴ conceived of as beneficial for another or for nobody, but always excessive and superfluous from the point of view of the one who suffers them. From her point of view, evils consist in an utterly superfluous suffering, which she has never agreed to bear. If evil consists in superfluous suffering, it presupposes the possibility of voluntary agreement to suffering, and its denial. Let me postpone dealing with this component of the concept of evil, however, until a later stage in the argument.

Both goods and evils are at stake in all domains of social conflict. Goods are

distributed through conflict, because there is always too little of them and they seem to be useful for the achievement of what seems to be good. The goods one possesses and seeks may partake in the good or they may not, one never knows, unless one knows the good. Evils are distributed through conflict, because there is always too much of them and they cause suffering that apparently could have been prevented at the cost of a lesser suffering. That they could have been prevented is always true, for they are social objects that come into being through and within certain orders of power which regulate, control, and institutionalize their production and distribution. It is always possible to conceive of a social map according to which the institutionalized diffusion of suffering in society will be conducted differently. More risky is the assumption that the prevention of superfluous suffering in one sphere would not cause an unbalanced increase of suffering in other spheres. One often errs about this, and one should always leave room for doubt. But one does not have to be a metaphysician on top of a Platonic divided line to speculate about the preventability of suffering, since it is always an empirical question.²⁵ It suffices that one is right about the preventability of evils—and for this one does not have to know “what is evil”—in order to establish that the evils at stake do partake in evil. For evil, not being the privation of a divine, transcendental good, does not lie in hell either. It is here on earth lying within the different distributive spheres and allocating mechanisms of human societies. It is present in their midst not as a *deus ex machina*, but simply as the relatively stable but often transformed order of the evils that social agents conceive, produce, distribute, and reproduce in more or less regular patterns.²⁶

IV

Let me reiterate my proposed notion of (political) evil: socially distributed and politically legitimized suffering may be preventable at the cost of a lesser suffering; it is evil, if it is continuously inflicted for the advantage of another, or of no one, without the voluntary consent of the individual who suffers. Looking back at the homeless person, one may possibly argue that her suffering is socially preventable, that it is certainly preventable at the cost of a lesser suffering to the homeless person herself (though, perhaps, one may argue, not for society at large), and that, if anyone benefits from the system that deprives her of a home, it is certainly someone else. The homeless person suffers superfluously for the benefit of another, or of no one. From her point of view, at least, homelessness is evil. But what about her society? If her suffering is preventable at the cost of a lesser suffering both to herself and to the society in which she is a member, her society is unjust. If, on the other hand, her suffering is preventable at a cost which is favorable for her yet which her society cannot bear, she has less reason than others to be one of its members and more reason to look for alternatives. If

being homeless seems unbearable to her, she would probably not have given her consent—had she been asked to do so—to a social contract that allocates people to homeless positions to begin with. In principle, it would be very hard to attribute political obligations to her, if she has never been asked, indeed, and never given her consent. Her dissent, in the form of political struggle, rebellion, or desertion, may be justified according to circumstances, given her share in other spheres of goods and evils, the price and prospects of each form of action to attain a positive change, etc. And she would better never try to look back at a hypothetical state of nature in order to understand the futility of breaking the rules that make her so much inferior to others. She would rather consider real, conceivable alternatives, not hypothetical ones. Some social contracts are more rational than a state of nature, especially a Hobbesian one, but right now she seems to be out of any contract. Instead of accepting the constraints imposed by a hypothetical contract, she would rather fight for a real one that may render her suffering worthwhile or obliterate it altogether. If she remains an obedient citizen, it is only because she is too weak, discouraged, or optimistic about the possibility to change her society “from within,” or perhaps she is constrained by moral duties other than the usual political obligations of a free and equal citizen. It is not without reason that so often the poor, the unemployed, and the drug addicts have been considered “enemies of the society” by the society that has been their worst enemy.²⁷

By way of some examples and an inversion of perspectives, we have come to recognize a necessary condition (no more than that) for the possibility of a just society: only a society in which no one suffers more than one's share may be really just. In other words, in a just society all socially preventable suffering is prevented, indeed the distribution of suffering eliminates excessive suffering created and reproduced through regular, institutionalized patterns of social interaction. An ideally just society is one in which suffering is distributed so as to eliminate entire distributive spheres responsible for the distribution of evils. But we have by no means come back to a theory of justice based on the distribution of goods only. The picture of distributive spheres in which goods alone are at stake does not belong to a model of real society to which a theory of distributive justice is applied as a corrective mechanism or a balancing principle. That picture belongs rather to the ideal horizon toward which moral politics necessarily aims. And moral politics could aim there only when recognizing its proper ground, the field for its discourse and action, the field where both goods and evils are constantly distributed.

Yet the picture is more complicated, and the inversion of perspectives may prove to be even more fertile. It should be remembered that evils are not distributed wholesale but according to one's positions in different distributive spheres. One could reasonably agree to suffer more than one's share in one

sphere, if one were compensated in others. For example, a poor person may agree to suffer more than her share in the economic sphere, knowing—that is, accepting a dominant ideology which states—that she is paying a necessary price for economic stability (in the real estate market, at least) and that such stability is a necessary condition for her own and the whole community's economic well-being. Perhaps she will be willing to suffer for even less, say, for the honor of being a proud member of a community that is so worthy of pride. A theory of a just society must allow for the conversion of preventable suffering in one sphere for a desired good or reduction of suffering in another sphere. Inspired by Walzer's characterization of tyranny (SJ, 19 ff. and cf. above), we may make the following observation: in an unjust society, the conversion of suffering consistently replaces political attempts to eliminate preventable suffering; in an evil society, the very possibility to convert suffering among the spheres is severely restricted; radical evil is the systematic elimination of the convertibility of an ever growing amount of suffering. The situation of the Jews during the last few years of the Nazi regime would fit this characterization.²⁸ (This does not mean that other regimes would not fit, or that, if they would, they are "like" the Nazi regime). Thus, an important distinction between injustice and evil (which is no less important than that between justice and goodness, yet which cannot be drawn out of its inversion or negation) is kept and assumes new meaning. Injustice is not only congruent with evil; rather, evil can be seen as a special case of an unjust situation, its ultimate deterioration, whereas injustice always contains the grains of radical evil. Recognizing an unjust society means understanding the sense in which it is different from a radically evil society, and yet may deteriorate to become one.

v

The idea of the convertibility of suffering can be taken further to the heart of social coexistence. A person may suffer more than her share, not only for her own benefit in another sphere, but also, more importantly, for relieving her fellows of their own suffering. Suffering is convertible both across spheres and among individuals, and usually conversion is a mixture of the two dimensions. When suffering is thus converted, one may bear it voluntarily, notwithstanding the fact that it is preventable, out of moral duty, pity, sharing, or love. This reshuffling of preventable suffering is essential for the possibility of human community, the family first and foremost. Social beings share space and time, pain and hardship; the sharing of goods comes later. No political or metapolitical rule, however, no matter how strictly derived and from where, can determine to what extent one should agree to suffer more than one's share, and for whom precisely.²⁹ The conversion of suffering must always be open to negotiation,

cultivation of moral sense, solidarity and friendship, and to new interpretations of the other's otherness, his humaneness or wickedness. But one crucial rule is clearly determinable: the conversion of the forms and modes of suffering must be based on voluntary agreement. Thus, I accept here, without arguing it any further, Habermas's universalization principle, which demands the consent of anyone affected by the consequences of the compliance of a norm in order for that norm to be valid.³⁰ When the universalization principle is mediated by the idea of the convertibility of suffering, the notion of a social contract may be reformulated as a model for an agreement regarding the forms and modes of conversion of socially organized and preventable suffering. A social contract is valid when all (rational) individuals who enter it agree to bear preventable suffering for the benefit of (1) specified and unspecified others, (2) in more or less specified circumstances, and (3) for specified purposes. It is a just contract, when the agreement is indeed directed toward a continuous reduction and gradual elimination of preventable suffering and does not stop at the agreed forms for its conversion. Not surprisingly, an ideal of moral progress is a necessary component of a just social contract.

From evil's point of view, a just society is based on a double confrontation between the real and the ideal. On the one hand, present mechanisms of conversion always fall short of, yet should aim at, an ideally rational agreement over actual forms of conversion. On the other hand, the future elimination of all preventable suffering is an unrealizable yet shared ideal that directs actual conflicts and negotiations over the redistribution of suffering; it is an ideal that is always already embodied in the various dimensions of moral politics. A just society is guided by an ideal of a hypothetical contract as far as the present is concerned: any rational agent would have agreed to these procedures for the distribution of evils and conversion of suffering at the present state of affairs. At the same time, a just society is guided by an actual agreement as far as the future is concerned: social agents rationally accept existing procedures that constrain political struggle and make the voluntary conversion of suffering a substitute for its elimination only while assuming that all parties to the struggle aim at the elimination of suffering, theirs included.

Within the framework of the contract, the political conflict is not about the ideal state of affairs—elimination of socially distributed suffering, for this ideal is what constrains social conflicts (i.e., constrains them as civil conflicts) in the first place. Rather, social conflicts are about the hypothetical agreement about the present procedures for the conversion of suffering. They constantly involve dispute and competition among social maps, grids for the articulation and representation of the distribution of goods and evils, as well as the evaluation of suffering, deciphering of its beneficiaries, and prediction of its preventability. The rationality of the hypothetical agreement depends on the interpretive de-

scription of social reality, not on the analytical construction of an image of an asocial reality, a state of nature. Instead of taking its reference point in a state in which no regular, socially institutionalized and guaranteed conversion of suffering is possible, this type of social-contract discourse constantly refers to another, all too political state: a state in which an established order of power severely restricts or almost eliminates the convertibility of suffering in socially regulated, institutionalized ways. This is the state I called above "radical evil." In the state of nature, conversion is possible, but radically unstable; in a state of radical evil, conversion is inherently impossible. It is the latter alternative, not the former, which social agents should have in mind, if they are to give their rational consent to the restrictions on the struggle for changing patterns of suffering conversion imposed by the existing order of power and justified by their hypothetical contract. The anarchy of an envisaged state of nature is less threatening than the suffering inflicted in a state of radical evil. Social contract should be directed more toward the prevention of the latter and less toward the possibility of the former. Rebellion is often less dangerous than obedient cooperation.

VI

The image of a state of radical evil underlies the social contract in yet another crucial respect. Suffering created by a system of power which systematically blocks ways for its possible conversion is also suffering which, when understood as such, should not be merely converted; no moral agent should be satisfied with its conversion, she must struggle to prevent it altogether. Because it should never be compromised, the attempt to prevent an unconvertible social suffering—that is, suffering whose nonconvertibility is a systematic attribute of the socio-political mechanism that produces and distributes it—is a categorical imperative. Unconvertible suffering is uncompromisable, because it is unjustifiable. A line should be drawn here between unjustified and unjustifiable suffering (or evils which follow from that). Socially unconvertible suffering, being that which constitutes the negative reference point of the social contract, cannot be justified within it; for the social contract is about how to institutionalize the distribution and conversion of suffering. By way of negation, unconvertible suffering constitutes the outer boundaries of a possible social contract. A consensus regarding this form of suffering is a condition for the contract's possibility (in all its various forms, from Hobbes to Rawls). For the relation may also be inverted, and in social life it often is: unjustifiable suffering is unconvertible—through legitimate social institutions—at least as far as an agreeable contract is concerned. Unjustifiable suffering is suffering, the conversion of which could never be legitimized; it must be prevented or else constantly delegitimized in whatever form it assumes. Social contract in both its hypothetical-present and actual-future mo-

ments presupposes a social consensus over what counts as unjustifiable evil, unconvertible suffering. This consensus is a necessary condition for the possibility of a moral community. It is usually articulated only when violated and interpreted on the basis of its violation. The articulation of this consensus in social theory and moral discourse is hardly argumentative; it is rather expressed as a basic, shared moral sensibility toward radical evil.

Recent communitarian approaches to ethics, such as Walzer's and Alasdair MacIntyre's, take this shared sensibility for granted. They propose moral "tradition" as the proper domain for moral and political debate; and traditions (of values, images of man and society, discursive practices), in so far as they are what the communitarians suppose they are, presuppose a shared sensibility toward radical evil.³¹ This shared sensibility marks the outer boundaries of a possible agreement, and hence of a possible dialogue, while drawing a line where dialogue must end and a political struggle must assume other forms. But it does not mark the realm of possible moral interpretation. For in the same way that the homeless person may question the social contract and its obligations, she may question the moral sensibility that takes homelessness as unjustified, perhaps, but not unjustifiable, i.e., it takes this form of suffering to be convertible. The expected communitarian move at this point would be to reinterpret social reality in light of a rearticulated traditional sensibility. Tradition is reinterpreted, of course; this is its very nature, but only in order to remain the same. Society's immoral face will be illuminated from within a reinterpreted tradition in order to make it up in accordance with the rearticulated moral sensibility. What counts, in any case, are the good old values that presuppose this sensibility and make it enunciative, those values which help us to recognize, read, and correct evils.

But a victim of the social order, such as the homeless person, may remain unsatisfied with this move. She may rather try to switch perspectives here as well, taking as her point of departure the real presence of evils instead of the ideal presence of values. Starting from evils, she would decipher the margins of sensibility which tolerate them before interpreting the values that censor them. And a prevailing moral sensibility should not be reactivated through the values that presuppose it; they should rather be measured against those evils which a dominant tradition has allowed to be produced and distributed. The articulation of those evils and the criticism of a dominant tradition in their light do not require an Archimedean point from which alone a moral argument can be developed, or an alternative tradition in which such argument must be embedded. Different, dissenting moral sensibilities are first experienced and shown, and only later rationalized and justified in moral discourse.

By taking the position that homelessness should not be a convertible suffering, that it must be prevented altogether, the homeless person is already challenging the realm of the justifiable. She is violating a shared sensibility, forcing its

adherents to try more radical (more aggressive, more deconstructive) reinterpretations of their tradition, or else to face an unavoidable social clash. And she may take this position through the mere decision to bear no more, or through whatever reason that would bring her to experience her suffering as unbearable. The same is true for the Palestinian youngsters or prison rebels. Indeed, the homeless may be too weak to enter a battle, and the prisoners too weak to win it; only the Palestinian boys seem to force upon Israeli society both a violent clash of forces and a reinterpretation of its shared sensibility toward evil. But this fact is contingent on my examples and does not touch the core of the argument. The core of the argument lies with the attempt to decipher, through interpretive analysis alluded to in the above three examples, patterns of evils distribution and to understand them as patterns of distribution of preventable suffering and the social contract as a double system of agreement over patterns of suffering conversion. The convertibility of suffering makes possible both sharing and coercion, and a whole spectrum of various modes of human coexistence. Humans inflict suffering systematically through regular patterns of social interaction. But human social coexistence cannot be reduced to patterns of powerful coercion, because suffering is systematically converted, not only inflicted, and it cannot be detached from a moral horizon, because suffering can be systematically prevented and partly eliminated as well. And whereas the good remains transcendent, perhaps divine if there is a God to deserve it, and goods are, or may be, that God's very dubious representations, evil is a constant, ever-changing formation of human coexistence. Social criticism must therefore begin as a deciphering and analysis of the distribution of evils; hermeneutic ethics must begin as the interpretation of evil.

VII

A just regime takes care to prevent superfluous, excessive suffering. Moral politics strives toward the elimination of preventable suffering, on the one hand, and toward redistribution of suffering according to the accepted patterns of conversion based on voluntary agreement, on the other. We are dealing therefore with the interpretation of evil, not with the construction of regulative models for a just society, or at least not only with these. The need to interpret systematically is implied by the conception of evils presented above. From a philosophical point of view, the interpretation of evil is not an emblematic appendix to the attempt to construct a regulative model of a just society; these two aspects of the philosophical discussion are inseparable and irreducible.

But the hermeneutic position may seem fragile. For in order to account for the distribution of evils (to be eliminated) and the conversion of suffering (to be transformed), too many debated issues must be settled first, and too many open

questions must be answered. The meaning, harm, and durability of different forms of suffering, the advantages and disadvantages of alternative means to prevent it, the proper chain of conversion, the worthiness of individuals, groups, and institutions to bear or enjoy the suffering of others—all these must be agreed upon before a regime can claim itself just or a politics moral. But only a comprehensive understanding of social reality, a complete transparency of the most complex and hidden social mechanisms, can guarantee such an agreement. This idea is therefore no less utopian than the ideal of a total elimination of superfluous suffering which it serves. It requires a perfect map of the social world, which would be topographical, geological, and archeological at the same time, and a perfectly asocial, apolitical act of mapping. The social cartographer must sit on the moon, or else he must admit there is and always will be something his map hides, and also adds or helps to create. Maps of the social terrain are social products, and they are goods at stake in more than one distributive sphere.

It is precisely for this reason that neo-Kantian philosophers, like Habermas or Karl-Otto Apel, have turned from that which is at stake to the procedures of the arguments about it, and have transferred justice—and the entire moral discourse with it—to the sphere of communicative action. In this sphere, they claim, it is possible to extract a logic of exchange and distribution from the very nature of the things at stake, i.e., arguments, social maps, normative claims about the meaning and worth of suffering, etc. It is then possible to extract an argumentative model of exchange which would regulate exchange in all other distributive spheres. In Walzer's terms (SJ, 12), arguments have become the dominant goods which, without being monopolized, are convertible through all distributive spheres. In fact, the conversion of any kind of goods into arguments about one's desert or right to possess it is a necessary condition for determining its just distribution. Even if one establishes local "courts of dispute" in each of the spheres, one always presupposes and relies upon a certain metalanguage, a fundamental logic and pragmatics of argumentation, to which one resorts whenever dispute fails to yield an agreement.³² The metalanguage would not solve the issue at stake, yet it would direct one how to go on arguing about it, and how to live with undecided arguments. In a free atmosphere of deliberation, when the proper procedures of argumentation are tightly guarded, each social agent would be able to offer for sale in the market of opinions her own social map. It is the map that purports to be best equipped to articulate superfluous suffering, determine wrong patterns of its conversion, and expose who benefits from that suffering and how. Social agents may discuss evils as they choose: instead of, alongside, or before discussing claims of right, desert, and need—it does not really matter. From the point of view of the theorist of procedural (argumentative) justice, the interpretation of social reality regarding both goods and evils is the predicament of every social agent; no particular agent specializing in inter-

pretation is privileged, the hermeneuticist or the cartographer of evil included. It is the task of a social theory with practical intent and metatheoretical orientation, or of moral philosophy proper, to salvage the theory of justice from the war of interpretations and save it the time, blood, and sweat of those who muddle in the trenches.

I shall not confront here the theory of argumentative justice directly,³³ but rather sketch, with the help of a few examples, two distinct lines of argument that, without undermining the framework of the constructivist approach, severely limit its scope.

(A) Even if some theory of procedural justice, argumentative in our case, were valid, adequate, and applicable, still the philosophical task of hermeneutic ethics qua an interpretation of evil may be no less, perhaps even more, urgent than that of the constructivist.

(B) The procedural argument is limited by two crucial presuppositions: that a consensus is a positive end to be reached through argumentation; that a consensus regarding the procedure itself is to be respected and challenged only through argumentation. But moral discourse in general and the interpretation of evil in particular are most urgently needed precisely in situations when the very content and existence of a particular consensus and the forms of argumentation it authorizes are the objects of moral debate and political struggle. Such a debate calls for hermeneutic skill and tools, exegetical as well as deconstructive, for it is the language of morality itself which is at stake; and the political struggle involved in that debate is enmeshed in a politics of interpretation, for it is the very sense of a communal collective identity which is at stake. The construction of hypothetical contracts and extraction of regulative presuppositions would come much later, when both the boundaries of a community and the language through which it shares, cultivates, and transmits its values have been more or less stabilized.

VIII

(A) Social maps are usually drawn by members of a hegemonic culture;³⁴ at least this has been true for most maps upon which the modern discourse of justice is based. It is only natural that these maps represent social reality in terms of the goods which members of a hegemonic culture are more likely to possess or to which they are more likely to have access. The underprivileged are more likely to develop a discourse of evils. Their maps, however, are usually less marketable, perhaps also less valuable, because the underprivileged are likely to have less access to that type of good given by recognized skill and positions of authority in the intellectual-discursive sphere. That traditional moral discourse has been so pregnant with goods and so impoverished of evils may be explained in part by the fact that, from Plato through Bentham to Rawls and Walzer, this

discourse has been usually produced by members of social elites and within hegemonic cultures. The maps they have used are naturally colored by the hues of the material goods, titles, and social positions that constitute the network of everyday life of an average member of the hegemonic culture. This is the network that shapes one's intellectual horizons, political aspirations, career expectations, life projects, good taste, and moral judgment. When the social map is portrayed according to the patterns of differentiation inscribed on the social terrain by actual mechanisms of distribution, the terms of social conflict would probably be determined by the social categories that privilege the already privileged. The closer a social map comes to the point of view of a social elite or hegemonic culture, the more corrective and less distributive, let alone less radical, would become the principles of distributive justice this map can support (in practice, at least, if not explicitly in theory).

In order to turn corrective principles back into distributive ones, the very patterns and mechanisms of distribution must be challenged.³⁵ A more radical Marxist critique would call for a transformation of the entire social system, a reorganization of all distributive spheres based upon a redistribution of control over, and access to, the means of production. Marxists can claim this transformation to be just only because they assume that the means of production are the dominant good, and that in capitalist society this good is monopolized by a recognizable social group (cf. Walzer, *SJ*, 11 ff.) But between the limited aspiration of liberal theories and the radical vision of some Marxists, a certain form of "radical liberalism" (or "local Marxism") may find its proper niche precisely by placing itself at the heart of a discourse of evil. This discourse neither would be satisfied with the corrective mechanisms of the liberal state nor would it challenge and try to transform its entire social system. The task of such a discourse would rather be to question the political and moral discourse of the hegemonic culture; it will not let that culture's social grid be unproblematically employed, and it will constantly call into question those social maps which give presence to dominant social positivities only, those goods of which dominant groups always have a better share.

The brief examples of the homeless, the prisoner, and the Palestinian should have indicated that evils have a "positivity" of their own. They could not have done more than indicate, for they, too, still rely on a dominant grid and on a social map that gives priority to the distribution of goods. The new type of positivity requires its own grid, which only a fully developed discourse of evil could supply. Even though he never mentions evil in his work, Foucault's studies of the history of madness, the clinic, and the prison supply us with excellent examples of such a discourse.³⁶ His "interpretive analytics" of power/knowledge in the restricted domain of modern "disciplines" gives presence and voice to so far little recognized, hardly speakable modalities of suffering pro-

duced through variegated mechanisms of power, technologies of pain, and regular manipulations of body and soul. Some critics have accused Foucault of moral nihilism or anarchism, because he never named what he described, never evaluated what he analyzed, and never launched an argument that would justify one form of power and determine its preference over others.³⁷ This seems to me to be no more than naming one for not naming others, and for not using the ready-made moral categories of the very system of morality one tries to undermine. Thinking of evils as the infliction of superfluous, involuntary suffering that individuals bear for the benefit of others or for no one's benefit, however, it is possible to re-read Foucault's studies of the disciplines as chapters in the history of modern (Western) evil.

Foucaultian genealogy and archaeology should be taken very seriously from our moral point of view, but it is certainly not the only form a discourse of evil may take. "Minority discourse" and its theory—in philosophy, social theory, psychology, but mainly in literature³⁸—may play a similar role. Minority discourse uses and abuses the moral and ideological discourse of a hegemonic culture in order to expose and problematize its social grid, invert its scale of values, and make it ashamed of its own social differentiations. It articulates the distribution of evils through a violent dissolution of dominant forms of discourse. The dominant discourse is attacked precisely at those points where it shifts one's attention away from the evils distributed in one's society (with one's more or less conscious cooperation) and precisely due to those mechanisms which allow it to focus attention on the goods to which one has rights, but also better chances to possess or enjoy.

A hegemonic culture, however, need not necessarily be monolithic; it is probably impossible to account for a hegemonic culture only from the point of view of its relation to prevalent modes and relations of production; the "oppressed" should not consist in one class, political group, or subculture; and minorities are certainly not the only ones who suffer. Evils are distributed across the social system, differentiating it and creating groups within it, in ways that sometimes do and sometimes do not overlap with the differentiation formed by and through the distribution of goods. In any case, evils create and allow for forms of experience which no theory of goods distribution can capture. Hermeneutic ethics must therefore relate first and foremost to those types of discourse which do capture what the hegemonic moral discourse usually misses. Its reading consists in radical social theory and minority literature, but also journalism and graffiti, poetry and folk songs, in short, every form of expression in discourse and in art which gives presence to evils. The hermeneutic discourse does not posit itself above these forms, as their (ever-redundant) metatheory that comes to criticize and pass judgment, or to regulate and guide; it rather relates to them as its closest informants and conversants. Its task is to relate those various repre-

sentations of the experience of evil (both the more theoretical ones produced “from without” and the first-hand accounts produced “from within”) to the dominant forms of moral and political discourse. Hermeneutic ethics should use its resources in order to challenge a dominant social map and undermine a dominant social grid, but also to force those captive of such a map or grid to listen to the voices that come from “below,” from behind these or those bars, from across this or that boundary. Relying on the social theorist as well as the criminal, the poet as well as the journalist and pamphleteer, hermeneutic ethics should articulate evil in order to expose its conditions of possibility, as well as its regularities and techniques; it should deconstruct conceptual schemes that make one deaf to the outcry, and posit or reconstruct new schemes that would let one see the horrors, how close to home they are, and how awfully one is responsible for them.

It must be noted, however, that the hermeneuticist’s discourse most probably emerges from within a dominant group and is still a part of its hegemonic culture. Too often, perhaps always, hermeneutic discourse belongs neither to those who suffer nor to their “authentic representatives”; it is not written from their point of view, nor does it use their proper language. The positivities to which it gives presence need not be those which the underprivileged experience subjectively, in the form of pain, threat, limited possibilities, etc. Hermeneutic ethics would be no less interested in the boundaries of such experience, understood from without, from the point of view of a privileged theorist, philosopher, or writer.³⁹ Yet whatever form it assumes, wherever the position from which it is announced, the discourse of evil must find its way into the quiet halls where distributive, procedural justice is calmly deliberated. Procedural justice claims to guarantee that, once enunciated, the discourse of evil will not be silenced. The task of hermeneutic ethics qua an interpretation of evil is to guarantee that the voice will be heard in the first place.

IX

(B) Beyond Rawls’s “veil of ignorance” or within Habermas’s “ideal speech situation” there can be no enemies. Rational speakers who deliberate their and others’ interests never experience hatred or animosity, only polite differences of opinions. The moral debate, hypothetical or utopian, is conducted among disembodied individuals (or within different voices within one’s own rational self) in an atmosphere free of social divisions and cultural differences. Imagine yourself without your particular self, says Rawls, try to generalize your particular interests, says Habermas, and see what that abstract self would really prefer, whether those particular interests are really “generalizable.” Some troubles may arise, however, when one leaves rationality’s castle and returns to the cave of

social reality. Suppose that even in the midst of struggle one still recognizes one's abstract self and is still capable of making the distinction between particular and generalizable interests. But what about one's fellows? If your fellow citizens refuse abstraction and generalization, try to face them with their own sense of justice, try to show them that their insistence on certain particular interests, inherited social advantages, and the like, contradicts values that they actually share with you and do in fact want to preserve. In other words, interpret for them your common tradition, that from which your shared sense of justice is drawn, and show them how it fits the rational yardstick for justice you claim to represent. Interpret for them their own social conduct and show them how it contradicts that yardstick. In short, put hermeneutic ethics to work in the service of moral constructivism.

But what if one's fellow citizens refuse to listen? What if they are suspicious of moral generalizations and abstractions and insist on very particularistic moral arguments? What if they ground their morality on very particular features of their particular selves and take some of their particular interests to be morally justified precisely because these interests belong to a special group of ungeneralizable interests? How should the argument for justice proceed from there? Should one still respect the actual procedures of the ongoing political debate? Should one consider those procedures justified because they formally presuppose an ideal speech situation? Should one still respect the consensus these procedures presuppose, use, and cultivate, because agreement is said to lie at the intentional horizon of moral debate (Habermas) or to be its hypothetical end (Rawls)? Or should one abandon moral discourse altogether?

These questions are not hypothetical. Those stubborn particularists are not imaginary figures, they are my own fellow citizens. Allow me a short digression on this point. Israeli society, being more cohesive today than some of its observers realize, is yet deeply divided among different communities that do not share basic moral sensibilities. One of the presently dominant communities in Israel grounds its morality on a modern, particularistic interpretation of Jewish nationalism. Refusing to generalize over certain interests, forms of suffering, and patterns of injustice, it is not very sensitive to evils as long as they are distributed to "the other," the gentile, the Palestinian. It has a threshold of intolerable evil very different from the one characterizing its rival community, which, in principle at least, insists on universalization in moral discourse.

The debate between these two communities⁴⁰—for the purpose of this discussion, let me call them chauvinists and liberals—has gone on in Israel ever since the Six-day War in June 1967. One of the more conspicuous features of this always democratic debate has been the stalemate into which it has apparently led the Israeli political system, which seems unable to decide whether to swallow or get rid of the occupied territories. This stalemate, which may have other, more

substantial reasons, has not been without political significance: over the last twenty years, it has helped to solidify a status quo that actually means an undeclared, *de facto*, and until recently deepening Israeli annexation of the territories.⁴¹ It is true that, since the beginning of the Palestinian uprising in December 1987, there have been some changes. One does not speak about actual annexation with such confidence any longer; but the consensus that allows the Israeli government to deal with the (mostly civil) disobedience of the Palestinian population as if the annexation were a *fait accompli* has not been weakened much. The occupation itself has remained intact. In the last twenty years, it has become a power order that shapes Israeli, not only Palestinian, life. The occupation has structured and constrained Israeli society in its entirety, the above-mentioned debate included. For the debate has been conducted between seemingly incommensurable moral sensibilities, yet within the framework of a shared political system based on a procedural consensus. This framework and that consensus have long been legitimizing the on-going occupation, no matter how oppressive it has become, allowing “the liberals” to take safe positions of protest and condemnation within the embracing, totalizing framework itself.

For “radical liberals,” and for radical moral discourse, it is the consensus itself that is finally at stake. The common ground presupposed by theories of procedural justice has been lost, temporarily at least, and in any case the concepts of justice and human rights have been constantly abused by the juridical system (both military and civil), which is never tired of legalizing new techniques for the distribution of evils. It is this distribution of evils which moral discourse must articulate now. Such a discourse interprets the occupation as a multisystem that, from evil’s point of view, constitutes one distributive sphere. The “conventional,” impassioned political and moral debate is understood as one part of that system’s face and its language is deconstructed accordingly. Consequently, radical discourse should develop its own moral language, based on an improved “grid of evils,” and from there draw new boundaries between friend and foe, “us” and “them,” dialogue and struggle, “their” sensibility and “ours.”

This type of radical moral discourse has only recently made its appearance in Israel—although it was needed long ago—partly as a response to the Palestinian uprising and the consequent worsening of Israeli repression. No wonder it sometimes resonates with the young Palestinian stone throwers, on the one hand, and a handful of Israeli (reserve) soldiers who refuse military orders to serve in the occupied territories, on the other. For these two types of political “activists,” very different in temper and intensity and wholly unequal in political significance, share nevertheless one particular discursive role. They let the evils of the occupation be visible, and the system that distributes them be recognizable and

articulable; they force each citizen to take sides, to choose between two rival moral sensibilities, and to face the consequences. Together with some engaged intellectuals, poets, and journalists they mark a line, draw a boundary on the slope: "Here I stand, I can go no further; here you stand, dare not go any further."

This digression may seem beside the point. It deals with an extreme situation, one may argue, with a divided society and with people in a war of liberation; it mixes external struggle (Israelis/Palestinians) with an internal one (chauvinists/liberals); and it leaves the issue of argumentative justice well behind. But is this extreme situation really so unique? Was it "extreme" before the Palestinian uprising? Was it philosophically different then and now? Was it so remote from the question of justice then? Was it then so different from many other, more or less local struggles, political crises, and civil strifes? Is the difference between "external" and "internal" so clear? Is it not the case that many distributive spheres (of goods and evils alike) are open systems that often cross local boundaries of communities and states, that evils are exported and imported in various, more or less "respectful," legal ways, and that the systems exporting evils deserve our moral attention no less urgently than those distributing goods inside our societies? Is it not the case that often the orders of power which produce and distribute evils have no recognizable, ideological, national, ethnic, or religious face? In fact, they sometimes have no face at all, and it is the task of hermeneutic ethics qua interpretation of evil to give them one, to let those who share relevant moral sensibilities recognize them for what they are, call them into question, and target them in discourse as well as in other forms of political struggle. It is the task of hermeneutic ethics to problematize social categories and distinctions, like "us" and "them," internal and external, crisis and everyday life, which let a discourse of justice prosper among those who hardly need it, and deafen their ears to the discourse of evil. Not that a discourse of justice is necessarily unjustified or redundant; its ideological significance is after all presented here as a challenge more than as an unproblematic affirmation. But it is usually less urgent. And urgency—a notion so foreign to the philosophical game which was and is born at leisure and seems mute when leisure has gone—belongs nevertheless to the heart of moral discourse. For if suffering is preventable and one knows, even vaguely, how, it is immoral to stand by; and if thinking and discourse are capable of making suffering appear and be conceived of as preventable and unbearable when not prevented, the philosopher has an urgent task. He is morally obliged to practice hermeneutic ethics qua interpretation of evil.

NOTES

- 1 From a philosophical point of view, most prominent in this context is the work of Emil Fackenheim; see, e.g., *God's Presence in History* (New York: Harper & Row, 1972); *The Jewish Return to History: Reflections in the Age of Auschwitz and a New Jerusalem* (New York: Schocken, 1978). See also the special issue on the Holocaust in this JOURNAL, XVI, 1-2 (1984-85).
- 2 Not surprisingly, perhaps, political discourse in Israel is inflated with such analogies and their criticism. See, for example, my essay "On Sanctifying the Holocaust: An Anti-Theological Treatise," *Tikkun*, II, 1 (1987): 61-66.
- 3 The reader may find a classic survey of the problem of evil in theology, philosophy, and literature in Radoslav A. Tsanoff, *The Nature of Evil* (New York: Macmillan, 1931). For a modern theological discussion see, for example, Kenneth Surin, *Theology and the Problem of Evil* (New York: Blackwell, 1986). Paul Ricoeur's seminal work on *The Symbolism of Evil*, Emerson Buchanan, trans. (Boston: Beacon, 1969) is a phenomenology of religious images and conceptions of evil. For a recent psychoanalytic discussion see "Le Mal," a special issue of the *Nouvelle Revue de Psychoanalyse*, xxxviii (Automne 1988).
- 4 For Plato see, e.g., *Lysis* 220-221, *Theaetetus* 176a; for Plotinus, see, e.g., *Enneades* I, 8; and for Augustine, see, e.g., *The City of God*, bk. xi, chs. 9, 16, 22; bk. xii, chs. 1-7.
- 5 The paradigmatic case is, no doubt, Leibniz's *Theodicy* (La Salle, IL: Open Court, 1985). In fact, we may paraphrase Jacques Derrida here and claim that, throughout the history of Western metaphysics and of the moral discourse it has generated, the absence of the good is the precondition of moral discourse, of the identity of its object, and of the interpretive effort required to retrieve that object out of the plurality of its false, distorted traces, signs, or representations. On the absence of the good in Plato, see Derrida, "Plato's Pharmacy," in *Dissemination* (Chicago: University Press, 1981), pp. 167-169.
- 6 Jeremy Bentham, *Economic Writings*, W. Stark, ed. (London: 1952), v. iii, p. 438; and cf. v. i. p. 103.
- 7 For Hegel, evil is a form of "subjectivism." In *The Phenomenology of Spirit*, it is discussed under the heading "Conscience" with regard to "the beautiful soul" (IV, C, c); in the *Philosophy of Right*, it is addressed in the section on morality (139-140). In a strict sense, evil does not belong to ethical life (*Sittlichkeit*), to the realm of the communal and the political.
- 8 *The World as Will and Representation*, E. F. J. Payne, trans. (New York: Dover, 1969), esp. vol. II, supplements to bk 4. Schopenhauer, however, is important in our context, for he breaks the symmetry between good and evil, pleasure and suffering: "evil can never be wiped off, and consequently can never be balanced, by the good that exists along with or after it" (*ibid.*, p. 576). And, quoting Petrarch, he adds: "*Mille piacer non vagliono un tormento.*"
- 9 Cf. *The Genealogy of Morals*, I. Nietzsche's etymological and psycho-historical inquiry into the origin of good and evil does differentiate the two concepts, but not in any way informative for our discussion.
- 10 This is the name of a chapter dedicated to Montaigne in Judith N. Shklar's *Ordinary Vices* (Cambridge: Harvard, 1984). This philosophical essay, quite unique in its form and subject matter, is, to the best of my knowledge, the one that comes closest to an analysis of evil in a modern political context.
- 11 For Montaigne on evil, see *The Essays on Montaigne*, bk. I, 14, 18; bk. II, 11, 12, 23, 27; bk. III, 5, 6, 9. My paper is in no way an attempt to interpret Montaigne, but it is in part a result of thinking with his *Essays*.
- 12 For the place of the highest good in Kant's political philosophy and philosophy of history, see Yirmyahu Yovel, *Kant and the Philosophy of History* (Princeton: University Press, 1980), ch. 1.

- 13 For more on Gadamer's concept of *die Sache*, see *Truth and Method* (New York: Seabury, 1975), pt. III; and for a discussion of Gadamer's ethics, cf. Michael Kelly, "Gadamer's Philosophical Ethics," *Man & World*, XXI (1988): 327-346.
- 14 John Rawls, *A Theory of Justice* (Cambridge: Harvard, 1971), pt. III, esp. pp. 60, 68, 86. It is a sense of goodness confirmed by Rawls's "thin theory of the good," but not a conception of the good as such, which should serve a moral being "as regulative of his plan of life" (*ibid.*, pp. 569-570).
- 15 New York: Basic, 1985 [hereafter SJ].
- 16 Walzer's multidimensional picture of society is congruent with that of contemporary sociologists like Pierre Bourdieu and Anthony Giddens. See, for example, Bourdieu, *Distinction: A Social Critique of the Judgement of Taste* (Cambridge: Harvard, 1984), pt. II, and "The Social Space and the Genesis of the Group," *Theory and Society*, XIV (1985); and Giddens, *The Construction of Society* (London: Polity, 1984).
- 17 In this work, I am not interested in haphazard, individual outbursts of evil-inflicting behavior that cannot be related to, and accounted for, in the framework of regular social practices. I believe that most occurrences of evil, and certainly the most outrageous among them, can be thus related and accounted for, but this is a claim which must be addressed separately. Its implication, however, marks the domain of my whole discussion below: evils are discussed in so far as they are social and political objects.
- 18 This is precisely what Bentham means when he formulates the distinction: "Good may accordingly be divided and distinguished into positive and negative. . . . Negative good is good consisting in the exclusion or removal of evils" (*op. cit.*, v. 1, p. 103).
- 19 Michel Foucault, *Discipline and Punish: The Birth of the Prison*, Alan Sheridan, trans. (New York: Vintage, 1979), p. 228.
- 20 A state of occupation may seem abnormal, but it is strictly relevant to our discussion. A continuous military occupation is a paradigm of a double system in which the distribution of goods and evils do not overlap. A cluster of distributive spheres (of goods) exist in a state of apparent normalcy alongside a powerful apparatus in which evil-inflicting mechanisms constitute a sphere or spheres of evils distribution. The lack of overlapping between the two systems is not a by-product of the state of occupation but a necessary condition for its stable reproduction. But a state of occupation only shows more conspicuously, perhaps more dramatically, what is true for many "normal" social systems, whose cohesion and stability depend on their ability to separate the two types of distribution, while maintaining an apparent overlapping. And see note 27 below.
- 21 Cf. *Discipline and Punish*, p. 228; "La société punitive" (Resume du cours, annee 1973), in *Annuaire de College de France* (Paris: College de France, 1973): 255-267; and "Prison Talk" and "The Eye of Power," in *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, Colin Gordon, trans. & ed. (New York: Pantheon, 1980), pp. 37-54, 146-165.
- 22 I am using the word in Foucault's sense as developed in *The Archeology of Knowledge*, A. M. Sheridan Smith, trans. (New York: Pantheon, 1972), esp. pp. 126-128, 171-181.
- 23 An obvious implication of this is the systematic blurring of the demarcation between fact and value.
- 24 A continuum must be drawn here between sheer cruelty that causes suffering, on the one hand, and relatively innocent manipulation that limits one's field of action, on the other. In the strict sense, to the extent that the mere existence of a person in the presence of another exerts power and limits the latter's field of action, co-presence is a potential source of disadvantage, hence of evils. In the vein of Schopenhauer and Nietzsche, Martin Buber insisted that "life, in that it is life, necessarily entails injustice . . . there can be no life without the destruction of life." But, he adds, life is "truly human when [a person] pictures to himself the results of his actions and, accordingly, attempts to encroach upon other creatures as little as is necessary"; cf. *A Land of*

- Two People: Martin Buber on Jews and Arabs*, Paul R. Mendes-Flohr, ed. (New York: Oxford, 1984). From this point of view, it is a contextualized, situated self-restraint that makes moral action possible. Evils come first; their minimalization constitutes the properly human, that is, the ethical.
- 25 In principle, evils are always preventable, by definition, for they are products of a socially organized and politically regulated distributive sphere. The question is a question of the price. Usually it is a very complicated question, yet in the extreme cases precision is not very important and the evaluation of suffering is not controversial. The more excessive suffering tends to be, the easier it becomes to demonstrate its preventability at the cost of a lesser suffering.
 - 26 It is the order of evils which renders the isolated infliction of evil a political matter. And it is interpretive political discourse that would introduce order into the aggregate of evil inflicting actions. Example: a six-year old child played with his father's gun and killed a man passing by. The child may be no less innocent than the dead man and suffering may seem utterly accidental, a pure case of bad luck, until one considers the way a government licenses guns and controls their use and toy companies design and market their products.
 - 27 The other two examples would have led to a somewhat different formulation: the Palestinian does not really belong to the society that oppresses him and the prisoner lives on the very margins of the society that excludes him. But, in fact, there is a continuum between the homeless person, the prisoner, and the Palestinian, as these three positions mark three possibilities of being "a client" of a distributive system (or more than one) without really being part of the society at large. The three are not real subjects of the societies that determine their fate, they are "types" that represent a problem to be dealt with. From this perspective, the difference is just a matter of degree. Hence the emblematic role of the state of occupation, which underlines trends and intensifies social mechanisms already in existence in a "normal" society. And see note 21 above.
 - 28 Primo Levi recounts the possibilities of exchange in the concentration camp: in the first day of spring, when the cold is no more the worst enemy, hunger becomes unbearable. Conversion is possible only within the individual, between different forms of suffering. See *Survival in Auschwitz: The Nazi Assault on Humanity* (New York: Macmillan, 1961).
 - 29 Justice cannot be a predicate of love or compassion, which seem to be important determinants in this context.
 - 30 Cf. *Moralbewusstsein und kommunikatives Handeln* (Frankfurt: Suhrkamp, 1983).
 - 31 Walzer, *Spheres of Justice; Exodus and Revolution* (New York: Basic Books, 1985); *Interpretation and Social Criticism* (Cambridge: Harvard, 1987); *In the Company of Critics: Social Criticism and Political Commitment in the Twentieth Century* (New York: Basic Books, 1988); Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University Press, 1988).
 - 32 For Habermas's theory of argumentation, see his *The Theory of Communicative Action, Vol. 1*, Thomas McCarthy, trans. (Boston: Beacon, 1984), pp. 8-42; for Karl-Otto Apel, see *Towards a Transformation of Philosophy*, G. Adey and D. Frisby, trans. (Boston: Routledge & Kegan Paul, 1980), chs. 4, 5, 7.
 - 33 I have done it elsewhere: "Against the Very Idea of an Ideal Speech Situation," in Yrmyahu Yovel, ed., *Kant's Practical Philosophy Reconsidered* (Dordrecht: Kluwer, 1989).
 - 34 For the notion of hegemony in culture from a "soft" Marxist perspective, see Robert Bocock, *Hegemony* (Essex: Open UP, 1986). A different sociological framework for dealing with cultural hegemony is offered by the work of Bourdieu; see especially his *Distinction, and Reproduction in Education, Society and Culture* (with Jean-Claude Passeron) (London: Sage, 1977). The concept as applied above is open to both approaches, to the one inspired by Lukacs and Gramsci, and to the semiotic sociology of the other.
 - 35 Rawls's theory of justice, for example, may be seen as a construction of a mechanism of correction applied to an existing social order. Redistributions are restricted by the principles of

the theory, but within their limits there is no incentive to question the very division of society into distinct distributive spheres, their conditions of possibility, or the relation of conversion, exchange, or interdependence among them.

- 36 Besides the above mentioned *Discipline and Punish*, cf. *Madness and Civilization*, Richard Howard (New York: Random House, 1965); *The Birth of the Clinic*, A. M. Sheridan Smith, trans. (New York: Vintage, 1975); and *Power/Knowledge*.
- 37 Most noteworthy is Habermas's critique in *The Philosophical Discourse of Modernity: Twelve Lectures*, Frederick Lawrence, trans. (Cambridge: MIT, 1988). See also Michael Walzer, "The Lonely Politics of Michel Foucault," in *The Company of Critics*; and Charles Taylor, "Foucault on Freedom and Truth," *Political Theory*, xii (1984).
- 38 For a general theory of minority literature, see Gille Deleuze and Felix Guattari, *Kafka: Toward Minor Literature* (Minneapolis: Minnesota UP, 1986); Abdul R. Janmahamed, "Humanism and Minority Literature: Toward a Definition of Counter-Hegemonic Discourse," *Boundary*, ii (Spring/Fall 1984): xii:3/xiii:1; David Lloyd, *Nationalism and Minor Literature: James Clarence Mangan and the Emergence of Irish Cultural Nationalism* (Berkeley: California UP, 1987); *Cultural Critique*, vii (Fall 1987) (special issue: "The Nature and Context of Minority Discourse"), with a special reference to Israeli culture in Hannan Hever's "Hebrew in an Israeli Arab Hand: Six Miniatures on Anton Shammas's *Arabesques*."
- 39 The field of reading of the hermeneuticist (moral) philosopher is therefore wide open, and it goes from poetry to history, and from journalism to sociology. But this spectrum is not only hermeneutics' field of reading, but the field in which it is situated itself. All these genres of writing and practices of discourse, philosophical hermeneutics included, give presence to evil, and the important difference is a matter of explicitness and reflexivity, on the one hand, and of sensitivity toward the yet unarticulated, on the other.
- 40 I do not pretend to capture the essence of the debate or its many different aspects, only that aspect in it which is morally relevant in the context of the present discussion.
- 41 This claim is best documented by the 1987 report of Meron Benvenisti, "The West Bank Data Project: Demographic, Economic, Legal, Social and Political Development in the West Bank," *The Jerusalem Post*, Jerusalem 1987.

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