

Article

# Political Justice: Levinas Contra Aristotle

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**Abstract:** In this paper, I argue that two radically different conceptions of political justice can be derived from the work of Aristotle and Emmanuel Levinas— notions of justice that are indeed directly opposed. Aristotle defines justice in terms of considerations of moderation, prudence, and measure, where the virtuous actor is supposed to demonstrate aspects of character and perform acts that are neither deficient nor excessive; yet the ethics of Levinas, as instantiated in justice, is a demand that responding to the needs of others not be limited by moderate considerations, but can precisely be realized as an exorbitant and anarchic assumption of responsibility. It thus becomes of decisive importance for both a thinking of the political, and political praxis, in determining which conception of justice is found to be more compelling. I illustrate the stakes of this difference with reference to the politics of asylum, and in particular, a discussion of the historical case of the Kindertransport.

**Keywords:** Emmanuel Levinas; Aristotle; justice; politics; refugees; Kindertransport

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## 1. Introduction: Proper Names

For the value of a thought is measured by its distance from the continuity of the familiar.<sup>1</sup>

—Theodor Adorno, *Minima Moralia*

To recall a ‘proper name’, for Emmanuel Levinas, was the evocation of an encounter with a singular Other, an individual whose philosophical *saying* marks out a particular territory of meaning within philosophy. Not just those who define a meaning or set of meanings, however, but who also provide an ability to ‘resist the dissolution of meaning and help us to speak’.<sup>2</sup> The names that Levinas lists in his book of that title—*Proper Names (Noms propres)*—are for the most part his intellectual<sup>3</sup> contemporaries of the Twentieth Century (with some exceptions, such as Kierkegaard). This selection is made for good reason: on the first page of the Foreword to the book, Levinas, providing a catalogue of Twentieth Century horrors, remarks that ‘at no other time has historical experience weighed so heavily upon ideas.’<sup>4</sup> Thus Levinas rallies to his side those thinkers in whom he recognizes ‘A non-indifference of one toward the other!’<sup>5</sup>, who work to ensure that ethical meaning can be preserved against moral horror, and who recognize the seeming failure of an entire Occidental philosophical and cultural tradition to prevent those horrors. These names—among them Jacques Derrida, Paul Celan, Jean Wahl, and Martin Buber—are largely thinkers with whom Levinas had positive affinities, and whose work he was to some extent prepared to affirm or counter-sign, even while marking out important areas of difference and disagreement.

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<sup>1</sup> (Adorno 2005, p. 80).

<sup>2</sup> (Levinas 1996, p. 4).

<sup>3</sup> As opposed to simply philosophical contemporaries—he includes poets and theologians, individuals who are not all *sensu stricto* philosophers.

<sup>4</sup> *Proper Names*, p. 3.

<sup>5</sup> *Proper Names*, p. 6.

There is, however, another list of proper names associated with Levinas that could be collated, in a more agonistic vein. Indeed, for a philosopher so profoundly associated with kind-sounding words like ‘peace’ and ‘ethics’, it is remarkable to consider that Levinas has quite the ‘rogues gallery’ of villains, like a superhero—that is, other philosophers with whom he had serious disagreements (or like having a ‘beef in rap music, to mix metaphors). His thoughtful polemic against Heidegger—arguably characteristic of almost the entirety of Levinas’s oeuvre—is well-known; given that Levinas is a thinker concerned with disrupting ‘totality’ (in this effort, heavily influenced by Franz Rosenzweig), Hegel can be seen as an implicit foe;<sup>6</sup> his ethics, in not privileging reason, is certainly a disputation of Kant;<sup>7</sup> minor disagreements with contemporaries like Martin Buber and Jacques Derrida occurred during his life;<sup>8</sup> as a thinker who affirmed, in his own unique register, the highly contested concept of ‘humanism’, one could add other figures who critiqued or rejected humanism, such as Louis Althusser and Michel Foucault, to this list<sup>9</sup>; and it would be possible for his readers to stage themselves a spectral, posthumous encounter between Levinas and interlocutors such as Alain Badiou and Slavoj Žižek, who often criticise Levinas in order to better establish some of their own claims.<sup>10</sup>

Each of these proper names represent the staging ground, the *mise-en-scène*, of a profound philosophical issue which was of concern to Levinas. Yet in this paper I want to isolate one name in particular, which is one of *the* defining proper names of Western philosophy: Aristotle. It goes without saying that Aristotle ranks among the most influential philosophers of all history, with Plato and Socrates. Criticizing Aristotle is an extremely difficult, and one might suggest hubristic, task, given the enormity of this figure within philosophy and the practically unassimilable scope of the total critical literature—Derrida’s remark that apropos of Levinas’s large body of work, one can ‘no longer glimpse its edges’,<sup>11</sup> applies exponentially to the legacy of Aristotle.

And yet, such a critique may be necessary, indeed unavoidable, from the perspective of taking Levinas’s texts seriously. Levinas himself did not make Aristotle an explicit, extended focus of critique—though if one consults the index of most of Levinas’s books, references to Aristotle are to be found in most of them, and usually couched in a critical vein (I will examine some of his remarks on Aristotle below).

My argument is simple: Levinas and Aristotle are radically opposed over the question of the meaning of justice. However, while this difference between them may be simple, some difficulties are faced in establishing this claim; furthermore, the consequences for a philosophical conception of political justice, and how that might be understood in matters of praxis, are profound.

At stake is the difference between the moderate and the excessive, where a thinking of the unconditioned or infinite comes to interrupt the conditional. Pragmatic approaches to the political have no ground of judgment for the actualization of the good life, understood as justice, because they have no external criteria of judgment outside the calculable. Aristotle recognized this problem but, I will argue, does not have a sufficiently robust answer to it. Conversely, in the ethics of Levinas, there is a recognition of an anarchic, infinite responsibility—an inexhaustible responsibility: for with the other our accounts are never settled.<sup>12</sup> William Simmons illustrates the meaning of this effectively with reference to the scene towards the end of *Schindler’s List*, where Oskar Schindler (played by Liam Neeson), despite having saved so many people, nevertheless reproaches himself for not having done

<sup>6</sup> There is no systematic critique of Hegel in Levinas, but there are references to Hegel throughout his texts; probably the closest to a systematic treatment occurs in the ‘Death and Time’ lectures collected in (Levinas 2000).

<sup>7</sup> For a detailed comparison of Kant and Levinas, see (Chalier 2002).

<sup>8</sup> *Proper Names* includes essays devoted to both thinkers. For Levinas’s response to Derrida, at once affirmative and critical, see (Levinas 1991, pp. 3–10).

<sup>9</sup> For an example of Levinas’s embrace of humanism, including the very title of his book, see (Levinas 2006).

<sup>10</sup> See Žižek’s essay in (Žižek et al. 2013); Badiou discusses what he sees as the limitations of Levinas’s ethics in (Badiou 2012), especially in Chapter Two.

<sup>11</sup> See Derrida’s funeral address for Levinas, ‘Adieu’, in (Derrida 1999, p. 3).

<sup>12</sup> (Levinas 1993, p. 149).

more.<sup>13</sup> Such are also the stakes in the present argument; the horrors of the Shoah, which preoccupied Levinas and inform, I would argue, the entirety of his post-war work, will provide the historical context and a case study intended to illustrate the implications of what follows.

The theoretical task is difficult, in part due to the following considerations. Firstly, there is the problem of the *nunc pro tunc* fallacy, of ‘presentism’—the imposition of current opinions or judgments upon the past. To criticize Aristotle for his well-known justification of slavery by seeing it as an anti-humanist stance seems terribly redundant; similarly, the applicability of his conception of the political, generated from the exigencies of the life-world of the Athenian polis, may also seem highly circumscribed. As Alasdair MacIntyre observed in *After Virtue*, ‘Aristotle takes himself not to be inventing an account of the virtues, but to be articulating an account that is implicit in the thought, utterance and action of an educated Athenian . . . for he holds that the city-state is the unique political form in which alone the virtues of human life can be genuinely and fully exhibited.’<sup>14</sup> Thus, to the extent that Aristotle’s views on justice are shaped by a specific historico-political context, comparisons between these thinkers may seem ostensibly difficult to draw.

Secondly, the potential field of comparison is very large—one could engage their relative thinking on epistemology; on metaphysics; and on ethics, justice, and politics, and do so situated in a wider philosophical context where other proper names would become pertinent (for example, the extent to which Heidegger can be seen as an Aristotelian, and how Levinas’s critique of Heidegger thus is in some way an implicit critique of the latter).<sup>15</sup> Such a treatment would be beyond the scope of one paper.

And yet despite these difficulties, I am convinced that such a comparison is necessary. In thinking of moderation as it relates to politics, an important question arises as to the legacy of Aristotle: to what extent do his writings and the influence of the philosophemes that fall under his proper name—such as conceiving of justice as moderation, which will be a key focus of my critique—continue to hold widespread currency in the contemporary world? Adorno comments on this wryly in *Minima Moralia* when he writes of the enduring influence of ‘the doctrine inculcated since Aristotle that moderation is the virtue appropriate to reasonable people’.<sup>16</sup> It is this concern about Aristotle’s version of justice, and its possible effects, that I want to explore in what follows.

It is even possible to question the problem of the fallacy of presentism, and to ask whether the world as Aristotle understood it is so unrecognizably different to ours, such that the thinking of questions of political justice would be inapplicable, depending on the epoch. Political violence of the kind discussed in Thucydides’ *History of the Peloponnesian War* continues in similar forms in contemporary history, including the history that was so decisive for Levinas’s own experiences, and which marked his philosophical work; as Jean Amèry noted in *At the Mind’s Limits*:

Yes, the SS could carry on just as it did: there are no natural rights, and moral categories come and go like the fashions. A Germany existed that drove Jews and political opponents to their death, since it believed that only in this way could it become a full reality. And what of it? Greek civilization was built on slavery and an Athenian army had run wild on the Island of Melos as had the SS in Ukraine.<sup>17</sup>

Amèry’s comments on the continuity of history as it rhymes, if not repeats (to cite Mark Twain’s apocryphal phrase), makes one think that the applicability of past thinking to the present and vice-versa may not necessarily be ill-conceived, if the implications of political decisions can be equally horrific. And yet concomitant to this is a counter-thought of rupture: that, following the thinking of Levinas (and

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<sup>13</sup> See (Simmons 1999).

<sup>14</sup> (MacIntyre 2007, p. 173).

<sup>15</sup> For more on this question, see (Fagenblat 2010), especially Chapter Three.

<sup>16</sup> *Minima Moralia*, p. 130.

<sup>17</sup> (Amèry 1980, p. 11).

Adorno could be said to underscore the thinking of Levinas throughout what follows), it is necessary to put into question (and possibly, into the dock) the continued influence of the ancients and an entire tradition of Western philosophy in the post-Auschwitz world, where that tradition and culture failed to stop the horror. Here, Adorno's quote, which I have selected for the epigraph above, is apposite: it may be that radical departures are needed from the canonical tradition of philosophy, requiring new thoughts which, to quote the poetic and moving ending of *Minima Moralia*, 'contemplate all things as they would present themselves from the standpoint of redemption . . . Perspectives must be fashioned that displace and estrange the world, reveal it to be, with its rifts and crevices, as indigent and distorted as it will appear one day in the messianic light.'<sup>18</sup> If anything in philosophy is so 'familiar' that may require 'distancing', it is certainly the thought of Aristotle. Before I am misunderstood, let me emphasize that this is not at all to lay the violence of Melos, the SS, or other political calamities, at the feet of Aristotle; such would be an absurd proposition. It is about a distancing or displacing of canonical philosophical axioms, in order that urgent ethico-political questions be thought anew; it is to worry not that Aristotelean justice will directly lead to the perpetration of horror, but to worry that it will fail to produce adequate responses to horror (and thus perhaps, indirectly exacerbate it).

Further, what may come into sharper relief through the staging of this encounter between Aristotle and Levinas is the familiar theme of an oscillation in Western thinking and politics between 'Athens' and 'Jerusalem'—proper names often taken to signify different perspectives, which nevertheless find themselves imbricated in European culture and philosophy.<sup>19</sup> It may be that the more 'exorbitant' ethics, leading to an exorbitant justice, which I argue is found in Levinas, finds its provenance in the Judaic tradition that was so important to him, which certainly influenced his philosophical thinking (even if he also took care to mark out a differentiation between his Talmudic and philosophic writings). A thinking from that tradition may radicalize a more Hellenic preference for measure and moderation, with important consequences for matters of political praxis. This is another enormous set of questions that I cannot adequately address here, but should be understood as an important consideration informing the arguments that follow at every turn.

In order to illustrate the differences as I perceive them between Aristotle and Levinas, I am going to apply the stakes of this disputation of the meaning of justice to a question of pressing contemporary political concern: the plight of asylum-seekers and refugees. According to the UNHCR, there are 68.5 million displaced persons in the world— asylum-seekers, refugees, and internally displaced persons—the greatest at any point since records began.<sup>20</sup> Aristotle is silent on the question of asylum—aside from worrying in the *Politics* about foreigners becoming citizens if a society becomes too large to monitor them, which I discuss below—but the question I want to focus upon here is what implications might Aristotle's thinking of justice, as a form of virtue, and conceived as moderation, have for the way in which asylum politics is understood and practiced? Additionally, how might Levinas offer a different, more radical or even excessive orientation to the same considerations? After first examining the meanings of justice to be found in both thinkers, I apply their thought to this question, and in particular, the historical case of the Kindertransport, which will illustrate the distinction I am drawing: ten thousand children were saved under this scheme, itself an exemplary act in many ways, but possibly bounded by a prudential, moderate vision of justice, itself inadequate when one realizes that the total number of children destroyed in the Holocaust was 1.5 Million.<sup>21</sup> Thus, an exorbitant, seemingly impossible hospitality, on the part of the UK at the time, might have saved so many more from calamity. Furthermore, while the responsibility was not solely on the UK—other states in or

<sup>18</sup> *Minima Moralia*, p. 247.

<sup>19</sup> Derrida made this the theme of his first essay on Levinas: 'Are we Jews? Are we Greeks? We live in the difference between the Jew and the Greek, which is perhaps the unity of what is called history'. See (Derrida 2001, pp. 97–192). Levinas himself often made similar remarks: 'Europe, then, is the Bible and the Greeks.' See (Robbins 2001, p. 137).

<sup>20</sup> (UNCHR Global Trends Report 2017).

<sup>21</sup> (Harris and Oppenheimer 2001, p. xii).

outside Europe might have played a similar role—the focus on a single state taking such responsibility will serve to illustrate another important point where Aristotle and Levinas part company: on the question of reciprocity. As I will explain further below, Aristotle sees a positive role for generous reciprocity in the functioning of a political community, whereas Levinas will repeatedly insist that ethics should not be generated from reciprocal considerations.

## 2. Aristotle and Justice

As is well-known, Aristotle's conception of the good is that of happiness, but a happiness, *eudaimonia*, understood as realized via the pursuit of a virtuous life. The happy person acts in accordance with virtue, and one of the qualities of the virtuous person is to be just. Justice, then, is related to Aristotle's conception of what is good both for the individual and the political community of which they are a part.

The meaning of justice is, to be sure, a dominant theme of philosophy going back to the pre-Socratics, and famously, the major topic of Plato's *Republic*. A particularly influential account of the meaning of justice, however, is that given by Aristotle in his *Nicomachean Ethics* (hereafter *NE*). There are multiple interpretations of justice given in Book Five of the *NE*, from justice as respect for the law, to justice as complete virtue, as distributive or reciprocal, as corrective or equitable; the distinctions are not always clear, which may be due to the *NE* being a set of lecture notes rather than a completed text which Aristotle had fully elaborated.<sup>22</sup> Yet across the different meanings of justice, there is a particular theme that I wish to isolate (while also being attentive to some other aspects): that of moderation. He wrote that justice is a 'sort of proportion'<sup>23</sup>, and that 'Injustice, on the contrary, is concerned with what is unjust, that is, a disproportionate excess or deficiency of what is beneficial or harmful; so injustice is an excess and a deficiency, because it is concerned with excess and deficiency.'<sup>24</sup>

In this account, justice itself is the avoidance of excess, a keeping within bounds of proportion, of measure, of moderation. To be just is not to go too far, nor to do too little—one might call it, a little tongue-in-cheek, the Goldilocks principle of justice. *Meden agan*, μηδὲν ἄγαν—nothing too much—was the inscription on the temple of Apollo at Delphi, and was a leitmotif of the Athenian polis.<sup>25</sup> While it is difficult to quantify in any kind of absolute way—one can only sense its influence, for the most part, by reading between the lines of arguments—it is arguable that this concept of justice continues to dominate philosophical thinking through to the present day. Thus, the task of the present section is to understand just what is meant by justice in Aristotle, how it relates to virtue, and the implications for politics—particularly for questions of foreigners and the politics of asylum. As I will elaborate further on, my argument is that an integrated reading of Aristotle's reflections on justice with his reflections on politics, demonstrates a commitment to a bounded polis that seeks to delimit the number of foreign arrivants, based on considerations of numbers; thus, an Aristotelian conception of justice is problematic for those seeking a compassionate and more open approach by sovereign states to refugees where the question of numbers is at issue.

A part of the difficulty, and ambiguity, of establishing what Aristotle means by justice—and then thinking this specifically in relation to political justice—concerns the problems of integrating what he writes about justice with his writings on virtue (where justice is itself one of the virtues), and at the same time his writings on politics (and one could add metaphysics, rhetoric, and so on). A particularly important question in this context is: if justice is a virtue, does that mean that the just act does not have to do with the result, the thing in itself, but rather the character disposition of the actor? Is this the only way to measure political justice?

<sup>22</sup> (Aristotle 2004, p. viii). All references to the *Nicomachean Ethics* are drawn from this edition.

<sup>23</sup> *Nicomachean Ethics*, 1131a, p. 86.

<sup>24</sup> *Nicomachean Ethics*, 1134a, p. 92.

<sup>25</sup> See, for example, 'Protagoras' in (Plato 2005, p. 51).

An important distinction here is between *mesotēs* and *meson*—between a mean state (*mesotēs*) and the mean (*meson*), neither excessive nor deficient, the virtue relative to the self.<sup>26</sup> Aristotle intends for us to understand virtue as a state of character, as opposed to a feeling or a capacity, as famously outlined in Book Two of the *NE*. However, a key question is whether establishing what is meant by a virtuous character can be accomplished by reference to the responses of the actor. Scholars disagree on this point, but will often acknowledge the inherent ambiguity in Aristotle’s text.<sup>27</sup> Lesley Brown argues that Aristotle is wrongly understood as a precursor to modern theories of virtue ethics, in asserting the primacy of the virtuous character of the actor prior to engaging in acts—as Brown notes, Aristotle acknowledges that some just acts are committed by people who are themselves not yet just (that is, just in that they are virtuous).<sup>28</sup> However, this is disputed by other scholars, such as David Bostock, who writes that ‘The best suggestion seems to be that it is not the virtuous action, on each occasion, that has something middling about it, but rather the general disposition from which it flows.’<sup>29</sup>

I want to take up this problem concerning virtue as it relates to justice. Aristotle writes that justice is ‘complete virtue; virtue, however, not without qualification but in relation to another person.’<sup>30</sup> This explains why Aristotle considers justice the greatest and most complete virtue (what he also refers to as ‘general justice’) because it refers to another person.<sup>31</sup> (In passing, I would note an affinity here with Levinas’s definition of justice in *Totality and Infinity*: ‘the relation with the Other, that is, to justice’—a conception of justice that has to do primarily with a relation to another human being, rather than, for example, a formal definition of justice as simply fairness).<sup>32</sup>

Is justice, then, as a virtue, related to the disposition of character of the actor, or does it have to do with the nature of the act performed by the actor? In Book Five of the *NE*, Aristotle writes the following about justice: ‘So the just is a sort of proportion. Being proportionate is not a property peculiar to abstract number, but belongs to number in general’.<sup>33</sup> This is explained by reference to geometric proportion, wherein a just distribution can be established.

And yet, Aristotle was not ignorant of the problematic nature of referring to justice with reference to numbers; in his *Eudemian Ethics*, he criticizes unnamed opponents for doing just this:

They ought in fact to demonstrate (the existence of) the good itself in the opposite way to that in which they do now. As things are, beginning with objects not agreed to possess the good, they demonstrate what are agreed to be goods; starting with numbers, (they prove) that justice is a good, and health, on the grounds that they are forms of order and numbers, good belonging to 20 numbers and monads because the one is the good-itself. They ought to start with agreed (goods), such as health, strength, and temperance, (in order to show) that the fine is present even more in unchanging things.<sup>34</sup>

As Stephen Menn observes: ‘... Aristotle thinks that the reduction of Forms to numbers and of philosophy to mathematics ... means that our explanations in fact have nothing to do with goodness.’<sup>35</sup> Despite this awareness, Aristotle’s own conception of justice seems to undermine this distinction.

This picture becomes more problematic when we link these considerations to what Aristotle says about justice and political communities, in both *NE* and the *Politics*. In *NE*, in reference to justice as obedience of the law, he writes, ‘So, in one sense, we call anything just that tends to produce or to

<sup>26</sup> (Brown 2014, pp. 64–65).

<sup>27</sup> See the discussion, for example, in (Brown 2014, p. 78).

<sup>28</sup> (Brown 2014, p. 78).

<sup>29</sup> (Bostock 2000, pp. 42–43).

<sup>30</sup> *Nicomachean Ethics*, 1129b, p. 83.

<sup>31</sup> *Nicomachean Ethics*, p. xxi.

<sup>32</sup> (Levinas 1969, p. 89).

<sup>33</sup> *Nicomachean Ethics*, 1131a, p. 86.

<sup>34</sup> (Aristotle 2005, p. 10, 1218a).

<sup>35</sup> (Menn 2012, p. 429).

preserve happiness and its constituents for the community of a city.<sup>36</sup>; in the *Politics*, he writes, ‘In the state, the good aimed at is justice; and that means what is for the benefit of the whole community.’<sup>37</sup> Justice as lawfulness is here linked to *eudaimonia*, the happiness or good-fated-ness of polis dwellers; and happiness, as defined in Book One of *NE*, relates not to simple pleasure or contentment, but rather to being in conformity with virtue: ‘happiness is a certain kind of activity of the soul in accordance with complete virtue’, and complete virtue pertains to justice.<sup>38</sup>

There would seem to be a function for justice in keeping political communities happy, and doing so by conforming to justice-as-virtue. However, it can be asked what this means when it comes to the relationship of a political community to foreigners who arrive at it? I repeat that Aristotle is silent on the question of political asylum (despite himself being for a time an exile, and his familiarity with themes of exile and hospitality from the Greek tragedies which he wrote about), but he does address the issue of foreigners in the *Politics*. In Chapter Seven, he writes that in considering the size of the state, ‘one ought to look not at numbers but at capacity’, possibly an implicit critique of Plato’s bizarrely specific ideal citizenry figure of 5040 citizen farmers and their dependents in *The Laws*.<sup>39</sup> He continues, ‘... even granting that we must have regard to numbers, we must not do so without discrimination: although we must allow for the necessary presence in states of many slaves and foreigners (residents or visitors), our real concern is only with those who form part of the state, ie. with those elements of which a state properly consists.’<sup>40</sup>

Thus, there is a distinction drawn here between numbers and capacity—that the number of people only matters to the extent that it affects the proper functioning of the polis: ‘In order to give decisions on matters of justice . . . it is necessary that the citizens should know each other and know what kind of people they are.’ If this is no longer the case, ‘it becomes easy for foreigners, and aliens resident in the country, to become possessed of citizenship, because the excessive size of the population makes detection difficult.’<sup>41</sup> In the *Nicomachean Ethics*, he quotes Hesiod approvingly: ‘on the subject of hospitality, “Neither let many share thy board, nor none”’, and observes that ‘one cannot have a city with ten people and with 100,000 it would no longer be a city. Presumably there is no one correct number, but anything between certain limits.’<sup>42</sup>

In the move to political justice, then, numbers are indeed an explicit consideration—because capacity, as Aristotle seems to acknowledge (‘even granting that we must have regard to numbers’ . . . ), cannot but be figured as an issue of numbers in this context, and he gives a numerical range within which moderation is to be achieved, without specifying the number. *Excess in relation to the number of foreigners entering a political community is precisely figured as a question of numbers—not as a disposition of character by polis-dwellers*. There is a capacity beyond which it would be necessary to limit the intake of outsiders, in order that the proper functioning of the state be maintained.<sup>43</sup>

In other words, what emerges in Aristotle’s thinking about political justice as it pertains to outsiders, is a consideration of justice, figured as a question of capacity, understood as numbers, which is both affirmed and denied in different places in his writings (affirmed in *NE*, denied in *Eudemian Ethics*). The account of virtue-as-justice which provides the shared conception of *eudaimonia*, which defines and informs the life of the polis, pertains to the good of the members of that polis, and on that

<sup>36</sup> *Nicomachean Ethics*, 1129b, p. 82.

<sup>37</sup> (Aristotle 1992, 1282b14, p. 207).

<sup>38</sup> *Nicomachean Ethics*, 1120a, p. 20.

<sup>39</sup> *The Politics*, 1325b33, pp. 402–3.

<sup>40</sup> *The Politics*, 1325b33, p. 403.

<sup>41</sup> *The Politics*, 1323b11, p. 405.

<sup>42</sup> *Nicomachean Ethics*, 1170b, pp. 249–50.

<sup>43</sup> I will not dwell here upon Aristotle’s disparaging remarks about the inferiority of foreigners relative to Athenians, except to note with interest that it has been argued that Aristotle understands human nature as changeable and shaped by political membership. My criticisms of Aristotle are not simply about how he sees foreigners, but the implications for foreigners—specifically, those in need of asylum—of his conceptualisation of justice and politics. See (Frank 2004).

basis, delimits membership and eschews excess, including excess figured as capacity (which I argue, *must* necessarily mean a question of numbers), as the above-quoted remarks in *Politics* reveal.

I will make some critical comments on this conception of justice, before turning to Levinas. Firstly, as I have indicated (aware that I have only briefly touched on a vast field), there is a certain ambiguity and extant disagreement amongst Aristotelean scholars as to the meaning of virtue; there is also ambiguity about the meaning of justice in Aristotle's writings as to whether it should be understood as pertaining to the nature of acts (figured as calculation, including with reference to numbers) or as pertaining to dispositions of character.

Secondly, referring back to the issue I raised concerning Aristotle's discourse and its reception through to the present: on one level, there may simply be a rhetorical effect of the repeated recourse to moderation, measure, produce, geometric proportion, and so on—an ethics of temperance and calculation, whether understood properly or perhaps misused in modern political discourse and reasoning. Perhaps it is necessary to be attentive to this rhetoric of moderation and calculation, and to ask what justifies a 'moderate' position on political questions, and what results such a position would generate for political praxis. Aristotle's own vagueness on the numbers proper to the size of a political community is precisely echoed in the vague talk of limits propounded by modern politicians when discussing the politics of asylum—there is a number that is too much, and we do not know what it is, but will assert the givenness of this logic nevertheless. Whether this is from Aristotle or not, the thought is identical, even if the motivation is perhaps less noble (a modern politician using an Aristotelean-sounding argument as a fig-leaf for xenophobia, political pandering, or avoidance of responsibility).

Thirdly, a comment on the prudential ethos that informs the ethics of Aristotle—the need for communities to be healthy and sustaining. As Roger Crisp observes in his introduction to *NE*, 'nowhere in Aristotle is there a recommendation of any kind of genuine self-sacrifice'.<sup>44</sup> It may be that following from Levinas, what we understand by ethics, and also crucially, in the move from ethics to justice (more on this below), should preserve at least the possibility of sacrifice, and of going to excess, in order to safeguard the welfare of others. One thinks in this context of states like Jordan and Lebanon, Chad and Ethiopia, who host enormous populations of stateless persons, at a very high ratio to their own populations: one in four people in Lebanon is a refugee, a ratio that would make Western policy-makers' heads explode.<sup>45</sup> That is to say that justice as understood by Levinas would not pertain to the good-functioning of the political community alone, but have a different *telos*—that of responsibility for others. It would, of course, be possible to construct an Aristotelean argument about natural political justice that might do the work of a universal guarantee of human dignity, in modern parlance; though this is a complicated idea, if one understands *physis* to entail a human being that is already a being-in-place as a polis-dweller, and if this should be understood as pertaining only to members of organized political communities.<sup>46</sup> Additionally, while it is possible to construct such an account in neo-Aristotelean terms, such as in the work of Martha Nussbaum and her 'capabilities' approach, where recognition of human dignity becomes possible, something is clearly lacking in these terms in that refugees continue to go unrecognized. As Hannah Levinson observes apropos of Nussbaum's approach:

On Nussbaum's account, the "moral concept of the human" drives us toward "recognition," or moral acknowledgment and thus accession to capability-oriented rights claims. How, then, are refugees relegated to their statelessness by another conscious moral being, or set of conscious moral beings? How are they left languishing under the effete jurisdiction of international law, unprotected by the state, banished from her birthplace, former residence,

<sup>44</sup> *Nicomachean Ethics*, p. xi.

<sup>45</sup> <https://www.bbc.com/news/av/world-middle-east-35163273/lebanon-one-in-four-a-refugee>, retrieved 15 February 2019.

<sup>46</sup> On this question, see (Benjamin 2016).

and former community? If Nussbaum stands by her argument, these questions which pertain specifically to the situations and traumas of the refugee cannot be answered adequately by the capabilities approach as I read it. The normative ideal Nussbaum purports has not, and perhaps cannot, account for the treatment of the stateless, rightless bodies of refugees.<sup>47</sup>

Finally, a comment on the role that reciprocity plays in Aristotle's thinking of justice. Aristotle distinguishes reciprocity from distributive or equitable forms of justice (as not all reciprocity can be equitable—he gives the example of an official having the right to employ violence, where it is not proper to extend to the citizen a right to strike back).<sup>48</sup> He does see a role for reciprocity, however, in getting citizens to requite good acts with good acts in a virtuous circle of reciprocity: 'This is why they erect a temple of the Graces in a conspicuous place, so that benefits might be repaid. This is the special characteristic of grace, because one ought both to perform a return service to someone who has been gracious, and another time to make the first move by being gracious oneself.'<sup>49</sup> Thus, a political community is well-served, on this account, when its members requite good acts with good acts. This is important to note because as will be seen, it marks out another crucial point of difference with Levinas, who is at pains to deny the importance of reciprocity in his understanding of ethics (and, I will argue, the move from ethics to justice).

### 3. Levinas and Justice

My argument in this section is that Levinas shifts the meaning of justice from an avoidance of excess, to the necessity of having to choose how one's responsibility is enacted with the advent of the third. In other words—and this is the truly radical moment in Levinas that offers an entirely different way of thinking about political justice—on my account, ethical excess survives the transmutation of ethics into justice; that is, responsibility for others becomes divided, but remains excessive.

As stated above, Levinas does not make of Aristotle an especial focus for critique; there are, however, critical references to be found in his work. Two interesting references to Aristotle occur early in his career. The following is taken from *On Escape*:

Therefore, the need for escape . . . leads us into the heart of philosophy. It allows us to renew the ancient problem of being qua being. What is the structure of this pure being? Does it have the universality Aristotle conferred on it? Is it the ground and limit of our preoccupations, as certain modern philosophers would have it? On the contrary, is it nothing else than the mark of a certain civilization, firmly established in the fait accompli of being and incapable of getting out of it. And in these conditions, is excedence possible, and how would it be accomplished? What is the ideal of happiness and human dignity that it promises?<sup>50</sup>

And from *Existence and Existents*:

Western philosophy and civilization never gets out of "numbers and beings", remaining conditioned by the secular world . . . the *orekton* of book 10 of Aristotle's *Metaphysics* is the supreme being, immobile, loved but never loving, terminus. The problem of the Good is formulated as a problem of ends.<sup>51</sup>

Here, there are two references to Aristotle as associated with a society too bound up with the 'fait accompli' of beings, too preoccupied with numbers. That is, Aristotle is decisively implicated in

<sup>47</sup> (Levinas 2010). In her paper, Levinson turns to Judith Butler's thinking on precarity and a language of affect which can be appealed to in coalitional political pushes to achieve the recognition that is lacking. For Nussbaum's account, see (Nussbaum 1993).

<sup>48</sup> *Nicomachean Ethics*, 1132b, p. 89.

<sup>49</sup> *Nicomachean Ethics*, 1133a, p. 89.

<sup>50</sup> (Levinas 2003, p. 56).

<sup>51</sup> (Levinas 2001, p. 29).

the overall critique of the history of philosophy that Levinas pursues from an early stage of his career. Aristotle prefers ends to excedence [climbing out of or escaping out of], numbers and beings to transcendence and the otherwise-than-being, reciprocity to unilateralism, moderation to excess, and eudaimonia to sacrifice.

For Levinas, ethics—and following from ethics, justice—has little, if anything, to do with happiness, reciprocity, or moderation. It is not bound to numbers or calculation, to moderation or reciprocity, or to the happiness of the responsible subject or their political community. As Diane Perpich observes, ‘Never in the history of Western philosophy has there been an ethical responsibility so severe: a responsibility that increases with my every attempt to discharge it: that does not depend on choice or voluntary action; that is a responsibility not just for the other but for all of his responsibility as well.’<sup>52</sup> The very excessiveness of Levinas’s ethics means that ‘In this picture of responsible subjectivity, there seems to be no place for the complacencies of ordinary moral life, where obligations are met, duties attended to, and the ego has time afterward to attend to his own cares and concerns.’<sup>53</sup> Responsibility is excessive and infinite, and the responsible subject is as if held hostage by the other whom they are responsible to. All of this is a long way from the account of justice which Aristotle gives, discussed above, which pertains to the wellbeing of the members of a political community. In order to clarify the differences, before proceeding in the next section to give a practical example of what these differences might look like in situation, I will elaborate on some elements of Levinas’s thought which I argue are opposed to that of Aristotle.

At a simple level, Aristotle’s ethics is a virtue ethics, whereas Levinas derives his ethics from the tradition of phenomenology and Judaic influences (a thinking of God as the infinite, which one also finds in Descartes). Aristotle’s thinking of ethics is just that—a thinking, a working through of the source of eudaimonia in virtue and the description of its qualities—whereas for Levinas, the ethical moment precedes its entering into the processes of intellection; ethics is manifest in the Face of the other, the advent of which is a pre-phenomenal event, that is, prior to the signification that makes the other manifest in thought; ethics, then, is not a product of reason, but is prior to it. As Michael Fagenblat observes, ‘Levinas sought to restore a new sense of an unconditional ethical imperative that could not be dismissed as merely abstract, formal, ahistorical, inauthentic, and ontologically inadequate. He did this by developing a phenomenology of the moral imperative that was derived not from the fact of Reason but from the face of the Other.’<sup>54</sup> For Levinas, it is possible to be totally responsible for the other person, whose Face calls me into question and places a demand upon me to exercise such a responsibility. In Levinas, this ethical demand is excessive, even exorbitant—it is a delimiting of one’s own self in the name of the other, a tearing of the bread from one’s mouth to give to the other (more on the ethico-poetics of food below).

Levinas writes in a moving summary of the ethics of Vladimir Jankélévitch, which the context makes clear he is in full agreement with, that the ethical demand is

... a spending without counting, a generosity, goodness, love, obligation toward others. A generosity without recompense, a love unconcerned with reciprocity; duty performed without the “salary” of a good-conscience-for-a-duty-performed, without even the good conscience of being the bad-conscience-of-the-duty-not-performed! All duties are incumbent upon me, all rights first due to others ... It is an ethics without eudemonism.<sup>55</sup>

The reference to ‘eudemonism’ and the anti-moderate language would seem to confirm this ethical thinking as a form of anti-Aristotleanism, and indeed Levinas links this passage to a thinking of ethics from a Judaic context. To the extent that eudaimonia is to be understood as a good-fatedness

<sup>52</sup> (Perpich 2008, p. xiii).

<sup>53</sup> *The Ethics of Emmanuel Levinas*, p. xiii.

<sup>54</sup> *A Covenant of Creatures*, p. xix.

<sup>55</sup> ‘Vladimir Jankélévitch’, in *Outside the Subject*, p. 87.

that is linked to happiness, Levinas is unconcerned with the effect of happiness engendered by the ethical response—what matters is the response itself, ‘a generosity without recompense’.

Ethics in the thinking of Levinas, is excessive, a result of the transcendence of the other of which one is never freed—held hostage by the demand placed upon oneself by them. This responsibility is not a matter of measuring out appropriate duties: as Raoul Moati explains, for Levinas, ‘to welcome the other in its excess is no longer to measure it.’<sup>56</sup> And yet as soon as there is more than one other other—that is to say, with the advent or arrival of the third—there may arise a need to start making choices between them. Levinas explains the point in *Ethics and Infinity*:

How is it that there is justice? I answer that it is the fact of the multiplicity of men [sic] and the presence of someone else next to the Other, which condition the laws and establish justice. If I am alone with the Other, I owe him everything; but there is someone else . . . It is consequently necessary to weigh, to think, to judge, in comparing the incomparable. The interpersonal relation I establish with the Other, I must also establish with other men; there is thus a necessity to moderate this privilege of the Other; from whence comes justice. Justice, exercise through institutions, which are inevitable, must always be held in check by the initial interpersonal relation.’<sup>57</sup>

Note the use of the word moderate here, which, I am arguing, represents a key difference between Levinas and Aristotle. The reference to moderation, for Levinas, is not an avoidance of excess, but the inability to no longer simply give everything to or be entirely responsible for a singular other, as there is now a third who also places a demand upon the subject: ‘One must, then [with the advent of the Third] compare the incomparable. For me, this is the Greek moment in our civilisation . . . The importance of knowing, the importance of comparing, stems from them; everything *economic* is posed by them, and we then come to something other than love.’<sup>58</sup>

In other words, justice, in Levinas’s account, retains the excessive quality found in ethics, rather than retreating into a moderation that would precisely delimit excess. As Richard Cohen writes, ‘Justice, then, has a source and a guide: the moral transcendence of the other.’<sup>59</sup> The key passage which makes this point occurs towards the end of *Otherwise Than Being*. Levinas writes,

In no way is justice a degradation of obsession, a degeneration of the for-the-other, a diminution, a limitation of anarchic responsibility, a neutralization of the glory of the Infinite, a degeneration that would be produced in the measure that for empirical reasons the initial duo would become a trio. But the contemporaneousness of the multiple is tied about the diachrony of two: justice remains justice only, in a society where there is no distinction between those close and those far off, but in which there also remains the impossibility of passing by the closest. The equality of all is borne by my inequality, the surplus of my duties over my rights. The forgetting of self moves justice.<sup>60</sup>

Justice, then, according to Levinas, is ‘in no way’ a ‘limitation of anarchic responsibility’. The excess he attributes to ethics is retained in the move to justice following the advent of the third. This is the fundamental point. Justice in Levinas is no longer bound to the moderate, but rather to the inevitable limitation of responsibility for a singular other by the presence of the third, where decisions will have to be made, and justice-as-politics begins.

One other phrase from this passage needs to be remarked: the reference to those near and far off, a quotation from Isaiah 57:19, which he refers to repeatedly in his work. Thought in the context of

<sup>56</sup> (Moati 2017, p. 16).

<sup>57</sup> (Levinas 1985, pp. 89–90).

<sup>58</sup> *Is It Righteous to Be?*, p. 133.

<sup>59</sup> (Cohen 2010, p. 92).

<sup>60</sup> (Levinas 2008, p. 159).

the politics of the asylum, this reference to peace between both those near and distant might trouble or undermine the privilege granted only to those who are near, that is, to the extant constituents of a political society, the limit problem of the demos—who counts in and who counts out in the considerations of a political community? While I cannot develop the thought here, this could also be linked to Levinas's thinking of the 'fraternité' element of the famous French motto and his reflections upon the Rights of 'Man'.<sup>61</sup>

Another key point in considering the difference between Levinas and Aristotle concerns reciprocity. In *NE*, Aristotle refers to the Temple of the Graces, which encourages the citizenry to requite good acts with good acts in a kind of virtuous circle of reciprocal generosity. However, Levinas is actively opposed to limiting ethics to reciprocity, as emerges in his engagement with, and critique of, Martin Buber. His issue with Buber's 'I and Thou' is the symmetry and equality that he sees in this relationship.<sup>62</sup> For Levinas, ethics is not delimited to the reciprocal, but is rather asymmetrical—the other comes from a dimension of a height, and commands me—and he is at pains to emphasise that the other's responsibility for me is not my concern.

If space permitted, these reflections could also be extended into other interesting areas between Levinas and Aristotle, such as their accounts of the experience of eating and the use of dietic imperatives as illustrative of ethics. For Aristotle, excess would be doing that which damages one's own health, such as an excess of consumption of food; for Levinas, eating can be compared 'with loving, which occurs beyond economic activity and the world'<sup>63</sup>, and belongs to the realm of permanent desire, but which also constitutes enjoyment—in this they may not be so far apart. Yet, Levinas often refers to food to illustrate the possibility of self-sacrifice as a meaning of the ethical and indeed the human interruption of being's persistence in being, which he even links to hospitality: 'It is not a gift of the heart, but of the bread from one's mouth, of one's own mouthful of bread. It is the openness, not only of one's pocketbook, but of the doors of one's home, a "sharing of your bread with the famished", a "welcoming of the wretched into your house" (Isiash 58).'<sup>64</sup> While Aristotle refers to beneficence towards others, it is not a logic of sacrifice of oneself, of giving to and even dying for the other.

In summary, justice for Levinas is anarchical, excessive, and one might say intemperate, aneconomic; as Howard Caygill writes of Levinas's ethics, 'The experience of the other is one of excess and so does not figure in economy, or at least is not reducible to it.'<sup>65</sup> For Levinas, politics must be able to be checked against ethical demands,<sup>66</sup> and is not bound to reciprocity: Diane Perpich observes, 'The relation to the other is an asymmetrical relationship that cannot be made reciprocal or symmetrical because the others' alterity is not a relative quality but rather the very content of her being'.<sup>67</sup> Such an asymmetrical relationship may lead to the possibility of sacrifice—even, 'hardly possible, but holiness demands it—to die for the other.'<sup>68</sup>

But what does all this mean? What implications might it have for political justice, which is the specific register in which I wish to think about Levinas's ideas concerning justice? In order to provide an illustration of how I think such a reconceptualization of political justice might have profound consequences for worldly affairs, I turn to a case-study of a specific political question—the politics of asylum.

<sup>61</sup> See 'The Rights of Man and the Rights of the Other' in *Outside the Subject*, and the two essays on the Rights of Man in (Levinas 1999).

<sup>62</sup> See 'Dialogue with Martin Buber', in *Proper Names*, p. 38.

<sup>63</sup> *Existence and Existents*, p. 35.

<sup>64</sup> *Otherwise Than Being*, p. 74.

<sup>65</sup> (Caygill 2002, p. 64).

<sup>66</sup> *Ethics and Infinity*, p. 80.

<sup>67</sup> *The Ethics of Emmanuel Levinas*, p. 35.

<sup>68</sup> *Is It Righteous To Be?*, p. 47.

#### 4. Why Moderation is a Vice, or the Problem with the Kindertransport

In order to clarify the difference that I am arguing separates Levinas from Aristotle concerning political justice, I will recapitulate this gigantomachy in a context where implications for praxis might be made manifest: specifically, concerning the politics of asylum. In particular, I will focus upon the case of the Kindertransport—the transport of approximately ten thousand Jewish children from central Europe to safety in the United Kingdom in the late 1930s—and what I think is wrong with it.

It may strike the reader as indecent to suggest that something is ‘wrong’ with saving ten thousand children from calamity. However, the failure is not contained within the nature of the act itself—the admirable refuge proffered to the vulnerable—but to its scope—ten thousand children<sup>69</sup>, when a total of around 1.5 million Jewish children ultimately perished in the Shoah.<sup>70</sup> Given this stark disparity between those saved and those killed, and who might have been saved, the moral stakes of how one conceives of political justice are brought into stark relief.<sup>71</sup>

Here is where the differences that distinguish Levinas from Aristotle become vitally important. I noted above a certain ambiguity regarding Aristotle and the figuring of excess and the size of political communities as a question of capacity and perhaps numbers, despite Aristotle’s critique of reckoning virtue as a set of numbers. For the Aristotle of the *Politics*, as noted above, it is permissible to limit the intake of foreigners if their number becomes too large to manage. The emphasis on moderation and the avoidance of excess—if this pertains to the nature of acts and not just dispositions of character, as discussed above—would already prepare the way, both philosophically and rhetorically, for a delimitation of the limits of welcome to foreigners. While it is true that in *NE* Aristotle refers to ‘magnificence’ and large-scale generosity, the question is how to reconcile this with the counsel against excess, on the one hand, and the limitation of the size of the polis, on the other, in determining what an appropriate Aristotelian response to the plight of vulnerable suppliants should be, where the question of numbers becomes ineluctably engaged. It is difficult to establish exactly how we should see Aristotle’s thinking of moderation, of numbers, of justice-as-virtue, and of the political, in order to form political judgments on questions of this sort. However, the question of the foreigner, their treatment and status, was not unknown in Aristotle’s day; thus my critique is not simply an unfair imposition of modern sentiments upon the past. My concern is how the philosophy of Aristotelian moderation may influence how these questions are taken up, and given the preceding observations, one has cause to be concerned about this influence, from the perspective of seeking to safeguard the human dignity of large numbers of persons in need, which might challenge and strain the ability of a state to cope with their arrival and integration.

One could also be concerned about the Aristotelian emphasis on reciprocity as a safeguarding of just outcomes, in that good acts are involved in a reciprocal cycle of good acts committed by others; in terms of political asylum, this would manifest in a state refusing to take in refugees unless others agree to do the same, and eschewing unilateralism. In short, to the extent that an Aristotelian conception of the political lacks an element of self-limiting or even self-harming sacrifice, as noted above, which fails to give the other person priority and to accept that priority is the orienting focus of one’s political responsibility, then outcomes like that noted above concerning the child Jewry of Europe are possible and remain probable.

A radically different conception of political justice becomes possible when thinking about Levinas in relation to politics (given that he is not himself ostensibly a political theorist, and treated political questions somewhat indirectly or at a level of abstraction that did not necessarily provide concrete

<sup>69</sup> (Fast 2011, pp. 14–15).

<sup>70</sup> <https://encyclopedia.ushmm.org/content/en/article/children-during-the-holocaust>, retrieved 17 January 2019.

<sup>71</sup> In work I am developing elsewhere, I take up this issue of the memory of the disappeared in relation to Derrida’s notion of ‘hauntology’, as an important founding ethical principle of political communities—remembrance of the disappeared as informing responses to those who newly arrive—which could be linked to the argument I am making here concerning Levinas.

suggestions for praxis). What would have been the consequences for the United Kingdom if they had accepted one and a half million child refugees, eschewing moderation or prudence, acting unilaterally without regard for reciprocity on the part of other states, for the safeguarding of those ‘far off’, taking the bread from their own mouths to give (or at least, to share) with the other, the possibility of sacrificing for the other, demanded by ‘holiness’? Is this an impossible, ‘pure’ hospitality, to speak in Derrida’s language? But there are examples of this; as mentioned above, one thinks of all the non-Western states who put the West to shame in their hosting of the vast majority of stateless people in the world, from Jordan and Lebanon to Chad and Ethiopia to Bangladesh and Colombia; on a lower scale, but still significant, is the possibility of Western states acting in a similarly exemplary fashion, as in the German decision to accept close to a million refugees in one year, or Italy’s now defunct program ‘Mare Nostrum’, which rescued thousands of people from the sea who otherwise might have disappeared completely. Such a politics is not impossible, it is just mostly not done; most politics tacks toward Aristotelean moderation, if not outright mean-spiritedness and cruelty, and opts for what is best for the flourishing of the extant political community. Things are even going backwards on this point in Western states: one might argue (as I have) that the Kindertransport was terribly inadequate, but within its limits, it was still highly noble; more recently, the United Kingdom was willing to take less than 500 Syrian children under the Dubs Amendment established by Lord Dubs, himself a child of the Kindertransport, who received little support.<sup>72</sup> One should be attentive to the disappeared as the very meaning of political responsibility and justice: peace to those now gone who will never come back, peace to those *not yet born, who have already disappeared* because of ‘moderate’ considerations which they are fatefully moving towards.

## 5. Conclusions

Should political justice be delimited to the moderate? What are the implications of this for political praxis? Is it not the case that, in the words of Thomas Paine, ‘moderation in principle is a species of vice’?<sup>73</sup> If, for example, in the context of the politics of asylum, moderation demands that one not go too far, has regard to the flourishing or even survival of the extant political community, and that therefore one not be excessive in the welcome proffered to the vulnerable other, become acceptable as an ethical politics? Is justice itself, ethical in this case? Additionally, how much of all this is Aristotle’s fault?

In my view, it is somewhat undecidable (and debated in the critical literature, as discussed above) whether Aristotle is guilty of the things that Levinas (and myself) accuse him of—a thinking that ‘never gets out of numbers and beings’, that emphasises moderation indeed (and not just in the comportment of the virtuous person), and that may be itself deforming of political consequence. It is impossible to rigorously draw a straight line from the profound, if sometimes contradictory or unclear, teachings of *NE* and the *Politics*, to the pronouncements of ostensibly prudent (and mostly, Western) politicians giving fine reasons why there is only so much that can be done. Just recently, Emmanuel Macron repeated Michel Rocard’s nonsensical hyperbolic line that France ‘cannot welcome all the misery in the world’ (as if someone had asked them to).<sup>74</sup> These attitudes obtain, and appeal to, a sense of the moderate, the prudent, and the cautious. Perhaps this is no more than a misuse of the legacy of the philosopheme of moderation. However, I have argued that it is nevertheless necessary to question whether it is the case that Aristotle, and more specifically, the concept of justice as it permeates in multiform fashion throughout philosophical and political life, is responsible for harmful delimitations of political action as I have described above in relation to the Kindertransport. It may be that those who insist that moderation pertains to the virtuous actor and not the action are correct, in which case,

<sup>72</sup> <https://www.independent.co.uk/news/uk/home-news/dubs-child-refugees-home-office-immigration-home-office-supreme-court-a8566191.html>, retrieved 17 January 2019.

<sup>73</sup> (Paine 1998, p. 383).

<sup>74</sup> <https://www.newstatesman.com/world/europe/2018/01/macron-s-visit-calais-shines-light-his-theresa-may-immigration-policies>, retrieved 17 January 2019.

prudential or mean-spirited attempts to not go to excess in times of moral urgency are not acts of fidelity, but rather betrayals of the ethos that Aristotle promulgated. Perhaps. However, I am not convinced, based upon the insistence in his writings on the need for measure as a leitmotif of justice itself (and not simply the virtuous actor), or the need to keep political communities from admitting too many foreigners; nor does this also resolve the problem about a demand for reciprocity that one also finds in Aristotle, which is also directly contrary to the seminal thrust of Levinas's ethics: 'Here [in ethics] there is no "human commerce", not a simple swapping of responsibilities!'<sup>75</sup>

A wonderful illustration of the Levinasian excessive figuration of justice which I have sought to articulate, can be found in Martin Luther King Jr's profound 'Letter from Birmingham Prison'. In responding to the criticisms he faced from white pastors in Alabama—why, King, are you stirring up this trouble and not being patient?—King critiques the attitudes of what he calls 'white moderates', who, he writes, 'are more devoted to 'order' than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice'.<sup>76</sup> In distinguishing justice from the law, King insists that justice is not moderate or prudential, but rather can or even should be disruptive and extreme; he embraces the word 'extremist' as it applies to a seeking of justice in the name of love, and calls for 'creative extremists' to fight for justice.<sup>77</sup> King even rejects the argument that such action is irresponsible in that it may provoke a backlash, and that he should take the counsel of white moderates and 'wait for 'a more convenient season''.<sup>78</sup> What matters (and here King sounds exactly like Levinas) is not what happens to me, but what happens to the other person<sup>79</sup>; to refuse to disrupt a social order in order to preserve one's own harmony or the existing harmony of a political community, preferring this to the justice of responding to the needs of others (where justice is figured as justice for that community itself, the justice it does for itself even at the expense of others, where the weighing of the interests of those near counts for more than those far off), is, to King, irresponsible. Again, I must emphasize that I do not read Aristotle as in agreement with this, despite what his defenders might want to say about how his account of virtue covers every ethical decision we might want to take, as proper to the virtue of that person; a reading of the *Politics*, as discussed above, makes it clear that the flourishing of the extant political community is of primary concern for Aristotle.

In the context of the politics of asylum, which I have used to illustrate the differing conceptions of political justice at play, this latter point is of paramount importance. Very recently, former presidential candidate Hillary Clinton counselled European decision-makers to limit migration in order to avoid provoking the extreme right.<sup>80</sup> In this, she is not far from right wing ideologues like Jean Raspail, who, in his execrable book *The Camp of the Saints*, depicts a France overwhelmed by a million migrants (a fear belied by Germany's recent and fairly painless absorption of a similar number of refugees). What justifies this appeal to prudence, polemically, we might call Nietzsche's *tepidity*: the 'tepid temperature which is the presupposition upon which every calculation of prudence or expediency is always based'.<sup>81</sup>

Ten thousand children went on trains going West and were saved; other children went on other trains going East, and one and half million children ultimately lost their lives in the Shoah. One direction or the other in a political decision can mean a great deal—to borrow from Primo Levi's *The Periodic Table*, 'The differences may be small but can lead to radically diverse results, like railroad switches'<sup>82</sup>. It is necessary to remember that we do not live in the world as it would have been;

<sup>75</sup> (Levinas 2000, p. 175).

<sup>76</sup> (King 2018, p. 13).

<sup>77</sup> *Letter from Birmingham Jail*, pp. 19–20.

<sup>78</sup> *Letter from Birmingham Jail*, p. 13.

<sup>79</sup> *Letter from Birmingham Jail*, p. 40.

<sup>80</sup> <https://www.theguardian.com/world/2018/nov/22/hillary-clinton-europe-must-curb-immigration-stop-populists-trump-brexite>, retrieved 17 January 2019.

<sup>81</sup> (Nietzsche 2013, p. 15).

<sup>82</sup> (Levi 2015, p. 803).

we live in the *other* world, where the 1.5 million children were not saved, but only ten thousand. One example in an endless catalogue of horrors, in the Benjaminian pile of disasters that rises to the sky, but one that effectively makes the point about limits and numbers, and the dangers of moderation. To emphasize a prudential consideration and say that it would have been impossible to take them in and required too great a sacrifice, is to posthumously condemn them to death once more, and to condemn to death or immiseration those tens of millions of people—almost seventy million as noted in the introduction—currently without membership in a political community that will guarantee their rights, who are denied, as Hannah Arendt termed it, their ‘right to have rights’.<sup>83</sup> Prudence and moderation are morally suspect, and even, in some circumstances, morally bankrupt. What Levinas—and King—invite us to do is to consider the possibility that justice can be radical and excessive, not prudent and moderate: ‘The possibility of sacrifice as a meaning of the human adventure!’<sup>84</sup>—a responsibility that is infinite and not bound to the calculative or the moderate, which, figured as political justice, looks a lot different to contemporary politics, including the politics of asylum, as the international community drifts along in a state of moral torpor, with failed refugee conferences stretching from Evian in 1938 to New York in 2016. Adorno, who I began by quoting and who put into question the influence of Aristotelean moderation on modern sensibilities (and in part inspired the preceding reflections), observed with Horkheimer that it may be necessary to ‘scorn logic if it is against humanity’.<sup>85</sup> This is among the vital themes bequeathed to our understanding of the ethical by Levinas: ‘And all I have done is to find a relation that is not an adding up.’<sup>86</sup>

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<sup>83</sup> The phrase originally appears in her *Origins of Totalitarianism*; for a recent in-depth discussion of this concept, see (DeGooyer et al. 2018).

<sup>84</sup> *Is It Righteous To Be?*, p. 204.

<sup>85</sup> (Adorno and Horkheimer 2002, p. 180).

<sup>86</sup> *Is It Righteous To Be?*, p. 142.

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