

The Locus of Judgement in Lacan's Ethics

Abstract

This article seeks to redress an often elided aspect of Lacan's treatment of ethics; the importance of judgement to the possibility of ethical action. Where writers like Žižek and Zupančič have presented the *act* as something akin to an asubjective miracle that imposes on the subject, this article will argue for an understanding that locates judgement and hence subjective reflection as crucial to Lacan's ethical project. Placing the act in the context of the emergence of subjectivity, the article shows how judgement can be seen to be already evident in Lacan's appropriation of Freud's *Wo Es war, soll Ich werden*. This results in an understanding of ethics that always already entails responsibility for the judgement one would make in assuming one's position of subjectivity.

At the beginning of *Seminar VII*, Lacan summarises the traditional question of ethics as, 'Given our condition as men, what must we do in order to act in the right way?' (Lacan, 1992, p.19). To this he conjoins his own definitional emphasis and understanding that ethics 'essentially consists in a judgement of our action' (Ibid., p.311). He adds to this definition that judgement must be evident, albeit implicitly, not only from the exterior of the action. That is, ethical judgement is not exclusively something one engages in or pronounces from the outside, but it, judgement, must also pertain to the action itself. The judgement necessary to ethics cannot be reduced to a juridical conferment which would be pronounced after the act or event but must be inherent to the act itself in order for that act to be considered ethical, rather than for that act simply to be judged right or wrong, beneficial or detrimental etc on the basis of some pre-existing table of prescriptions. Without this last proviso, ethics would unavoidably be reduced to a posterior conclusion which would be identical, in structure at least, to the legal. The problem with such a reduction to the legal is that the content which would ensue is entirely arbitrary, being, as it would be, without any support. The law must conceal in mythical obscurity its own impossible foundations. The judgement that *this* is right or wrong must necessarily rely upon a further level of

reasoning or justification which explains or justifies why *this* is right or wrong, which in turn must rely upon a further level of reasoning or justification which explains or justifies why the previous reason is right or wrong, ad infinitum. The ultimate reason, if there were one, would have to have emerged *ex nihilo*, like the word of God to which many bodies of positive law do appeal. This, however, does not actually solve the problem, but, rather, simply shifts the ground, and the reductio ad infinitum moves to the question of how we can justify our belief in this ground of law or how we can justify our interpretation of and from this ground of law.

While this might help us to understand why it is that an ethics cannot be reduced to a posterior judgement without becoming indistinguishable from the legal, it also raises a further problem in terms of the judgement which would have to pertain to an action. If any judgement in a legal sense must necessarily rely on an obscured ground, on an appeal to a mystical author(ity), then what, even if ethics is concerned with a judgement which would be integral to an act, stops it being reduced to the same problematic?

The Lacanian answer lies in the very constitution of subjectivity, the necessary relationship between the subject and the law inherent in this constitution and the crucial fact that this constitution cannot reduce the subject and the law to the same instance. That is to say, although we are clearly not dealing here with a monadic subject who would somehow stand outside the law, who might assume a position of alterity to the law which would allow it to judge independently of the law as such, neither are we dealing with a subject who could be entirely subsumed within the law.

For Lacan, the law intervenes at the very moment of the constitution of the subject; the law, as commensurate with the realm of the Other, is the location into which the subject must become and such becoming is necessarily divisive of the subject, rendering it barred, \exists . What is essential here is the *idiotic* nature of the relationship between the subject and the law. The law, however universal it might be, must also impose here as the law for the subject.

The law in its prohibitory force creates the subject as divided. This division renders the subject as lacking. Arising from this lackingness is the conviction of a possible situation of non-lack, a conviction which is 'experienced' by the subject as the desire for the (impossible) return to unity which would be *jouissance*. It is, however, only through the intervention of the law that such a supposition might be made at all. Without the prohibitory effects of law, the cut it enforces, there would be no *jouissance* to be barred just as there would be no subject to be barred from and thus seek to attain *jouissance*. In this sense, *jouissance* is only ever retroactively posited as lost but is simultaneously, as retroactively posited, crucial to the very possibility of the subject.

The confrontation with this moment is the *vel of alienation* Lacan elaborates in *Seminar XI, The Four Fundamental Concepts of Psychoanalysis*. The subject in order to come to be as subject must choose between the being as lacking (*manque-à-être*) of subjective existence in the realm of the Other, the lack of being (*manque-à-être*) which would be proper to the subject of the law, or it must refuse subjectivity altogether. The obvious paradox here is that in order to make such a choice, the moment must have already occurred. It is in this sense that the choice taken entails a

retrospective positing of responsibility for that choice. The subject, in becoming subject, must assume responsibility for its own becoming subject. The alternative here is the foreclosure of this moment and the subsequent refusal of a subjective position as such, that is to say, a perverse relation to the law which accredits the law or the Other with the responsibility for one's being.

The subject's assumption of responsibility is the emergence of the 'I' who would come to be in the place where the Other had dominated, who would come to be the cause of its own idiotic relation to the law. This is the logic inherent to the dictum *Wo Es war, soll Ich werden*; there where it was, 'I' must come to be.

Such an assumption of responsibility can be understood to be that which ceases the perpetual slide inherent in the search for or the presumption of an ultimate foundation for and of the law. The law, as the realm of the Other, is, like the subject, lacking. This lack can be understood to be commensurate with the impossibility of its own founding moment. The law's necessary dependence on something outwith itself which would confer the authority of its own constitution means that it cannot be that which would guarantee one's position of or status as subject. It is in this sense that the judgement entailed in the ethical would necessarily be a judgement made by the subject, a judgement, moreover, which could strictly not appeal to the law or the Other for its verification.

When, therefore, Lacan says that 'the only thing of which one can be guilty is of having given ground relative to one's desire' (*ibid.*, p.319), this must be read with sufficient emphasis placed on the 'one's'. Lacan does not claim that *the only thing of*

which one can be guilty is of having given ground relative to desire, he claims that 'the only thing of which one can be guilty is of having given ground relative to *one's* desire' (*ibid.* my emphasis). This is what is not accounted for in an interpretation such as Adrian Johnston's which concludes that what Lacan is engaged in his famous dictum and, consequently, throughout the seminar on *the Ethics of Psychoanalysis*, can be reduced to the posing of the question of whether or not ethics can function beyond the super-ego, that is, whether or not there is a possibility of the subject moving beyond the confines of the relations of law, desire and guilt, (Johnston, 2001, p.420). What Johnston misses is the essential point that Lacan here address the very subjectification of desire and thus points to the assumption of responsibility which would render this potential position of having not ceded with regard to one's desire distinctively ethical.

This emphasis on the subjective is borne out by Lacan's invocation of judgement as paramount to the field of ethics:

let's say that an ethics essentially consists in a judgement of our action, with the proviso that it is only significant if the action implied by it also contains within it, or is supposed to contain, a judgement, even if it is only implicit. The presence of judgement on both sides is essential to the structure.
(Lacan, 1992, p.311)

We have here a complex definition of the conditions of an ethics. First, in order for an act to be considered ethical there must be someone or something which is capable of judging that act. This would further imply the existence of some criteria on which such a judgement might be based. So far, this is relatively uncontroversial. Most traditional forms of ethics would agree that ethics would be largely meaningless if there were not something to judge as ethical and 'someone' to do the judging. Where

contention might arise would be the question of who or what might be in a position to judge and the related question of what might constitute a sufficient or worthy criteria for such judgement. The second part of Lacan's definition here also appears to fit fairly comfortably with more traditional forms of ethics. While some may argue that an act in itself might be judged to be right or wrong, they would still, most likely, agree that such an act would still require an actor and that some decision is involved in the enactment. That is to say, even in the most pressed of circumstances, someone does decide whether or not and in which way to act. This point is clearly attested to by Aristotle in his discussion of voluntary and involuntary actions where he contests that even actions committed under compulsion ought to be categorised as voluntary insofar as they are, despite the force of compulsion attendant to them, actually 'chosen or willed' at the point of acting:

For at the actual time when they are done they are chosen or willed; and the end or motive of an act varies with the occasion, so that the terms 'voluntary' and 'involuntary' should be used with reference to the time of action; now the actual deed in the cases in question is done voluntarily, for the origin of the movement of the parts of the body instrumental to the act lies in the agent; and when the origin of an action is in oneself, it is in one's power to do it or not.

(Aristotle, *Ethics*, p.53)

This is not of course to rebound to a conception of subjectivity which would portray the subject as a clear and utterly free agent who has complete liberty over not only its actions but its very involvement in these actions and to the desire which would attend such actions. This would appear to be something that Aristotle would uphold and is something which would be upheld as a background of much of the tradition of ethical theory. That Lacan can commit to the definition of ethics above without committing to this notion of autonomous agency can be illustrated with reference to Aristotle's

description here. If one accepts that, in Lacan's terms, one is not strictly free insofar as one is conditioned by one's relation to the Other, that one is able to accede to subjectivity only in the place of the Other, that one is necessarily divided from oneself under the rule of law, then this still does not necessitate that one assumes a position of irresponsibility for one's actions. As in the example from Aristotle, one is still implicated in the most compromised of positions. This, again, is the logic of the *vel* of alienation wherein even when faced with the most forced of choices one must still choose. The *vel* of alienation is not a mere example which would serve to illustrate this point but is the very mechanism which underpins the logic at work here, a logic which insists on the situating of judgement in the action in order for that action to be perceived from a strictly ethical perspective.

In one of the cases Aristotle uses to illustrate his response to the question of voluntarism, for example, the choice one faces is whether or not when asked to decide between committing a base act or allowing one's family to be executed one is actually voluntarily choosing, that is, whether or not one is responsible for the choice made. For Aristotle, while most people would accept that the choice to commit the base act would not as such be a free choice insofar as the alternative is so much worse, this decision is still one undertaken voluntarily. Similarly, for Lacan, the decision taken is very much a decision taken. The 'forced' nature of the decision does not excuse it:

This, as I have said, has quite a direct implication that passes all too often unperceived – when I tell you what it is, you will see that it is obvious, but for all that it is not usually noticed. One of the consequences is that interpretation is not limited to providing us with the significations of the way taken by the psyche that we have before us. This implication is no more than a prelude. Interpretation is directed not so much at the meaning as towards reducing the non-meaning of the signifiers, so that we may discover the determinants of the subject's entire behaviour.
(Lacan, 1977, p.212)

These 'determinants' of the subject's behaviour are ultimately that posited and assumed by the subject itself. Insofar as there is no subject before the *vel* of alienation, the subject, \exists , which comes about as a result of the *vel* is necessarily that which retroactively posits itself in the confrontation of the *vel*. Subjectivity is only possible after the choice has been made and it is in this sense that the entire choice, insofar as it is seen to have been made, is a subjective assumption. The alternative here is to retroactively refuse the choice, that is, to foreclose one's very subjectivity. Interpretation here, the judgement that *this* or *that* is the 'true' cause of the subject's desire, the subject's very motivation as subject, can only be made by the subject. And in being so made is not a description of something which would have been already given, is not an acknowledgement of a cause which would have pre-existed as cause, it is not a refinding of that which was there all along. The judgement made here is such that it necessitates a creation. In coming to isolate the cause of its desire, the subject is in effect assuming the weight of and as the cause of its own desire, that desire which is in one. There is no other ground to justify this desire, for any other ground would merely indicate a further assumption.

This point can be seen in the famous example David Hume uses of the billiard balls. Hume argues that in any occurrence which is supposed to be an occurrence of cause and effect, it is not possible to ascertain with any absolute certainty what, if anything at all, actually connects the two instances; 'One event follows another; but we never can observe any tie between them' (Hume, 2002, p.74). That we do tend to accredit a relation of cause and effect between two events is, according to Hume, due to the experience or the impression of repetition:

when one particular species of event has always, in all instances, been conjoined with another, we make no longer any scruple of foretelling one upon the appearance of the other, and of employing that reasoning, which can alone assure us of any matter of fact or existence. We then call the one object, Cause; the other, Effect.
(*ibid.*, pp.74-5)

Such a conclusion is, however, for Hume no more than a supposition. That is to say, even in instances wherein we may feel convinced of the causal relation between two events, we have not actually uncovered any definite relation between the two other than the impression of like events tending to occur in a similar fashion. The flaw of reasoning here, as Hume is quick to point out, is that there is nothing in the repeated instances which would elucidate the connection any more than in one single instance:

The first time a man saw the communication of motion by impulse, as by the shock of two billiard balls, he could not pronounce that the one event was connected: but only that it was conjoined with the other. After he has observed several instances of this nature, he then pronounces them to be connected. What alteration has happened to give rise to this new idea of connexion? Nothing but that he now feels these events to be connected in his imagination, and can readily foretell the existence of one from the appearance of the other. When we say, therefore, that one object is connected with another, we mean only that they have acquired a connexion in our thought, and give rise to this inference, by which they become proofs of each other's existence: A conclusion which is somewhat extraordinary, but which seems founded on sufficient evidence.
(*ibid.*, pp.75-6)

The point here is that there is an irreducible gap between what we would take to be the cause and what we would take to be the effect. The positing of this or that as a cause is never something which can be adduced as such; 'there remains essentially in the function of cause a certain *gap*' (Lacan, 1977, p.21):

Whenever we speak of cause ... there is always something anti-conceptual, something indefinite. The phases of the moon are the causes of the tides – we know this from experience, we know that the word cause is correctly used here. Or again, miasmas are the cause of fever – that doesn't mean anything either, there is a hole, and something that oscillates in the interval. In short, there is cause only in something that doesn't work.
(*ibid.*, p.22)

For Lacan, it is not the case that there is an error of reasoning which leaps too quickly in ascribing the position of cause to one event, for example, the phases of the moon, and the position of effect to another, for example, the movement of the tides. Rather, the gap which insists between cause and effect is the very condition of the concept of cause (and effect). Without the gap, there is no cause and effect as such. This would be what the concept signifies. In this sense, cause should be distinguished from that which is determined in a system. Cause, properly understood would be that which is exterior to the system itself, the 'wager' (Lacan, 1993, p.192) on which the system could be founded. If, to utilise an obvious example, we were to follow Descartes' logic in accepting that 'I think' confirms that 'I am', we are in fact accepting nothing which is not already inscribed in the system of natural language; that a predicate requires a subject. In itself, this linguistic analysis does not confirm anything else. 'I think, therefore I am' does not show any relation of cause between an agency and an action, it merely illustrates the structure of the system which would entail the postulation of a grammatical subject as (supposed) agent for an action. The proper cause here, in Lacan's sense of that which would be indicative of a gap, of that which 'doesn't work' (Lacan, 1977, p.22), would be that which would pertain to the establishment of the system under discussion, the assumption that actions require agents or that every action is understood by necessity to have an agent.

The *vel* of alienation demonstrates this point insofar as it is indicative of the retroactively posited moment which would appertain to the limit of symbolisation, the impossible moment of emergence of that which was not into the realm of the symbolic where it will no longer be itself:

As soon as the subject comes to be, he owes it to a certain non-being on which he raises his being. And if he isn't, if he isn't something, he obviously bears witness to some kind of absence, but he will always remain purveyor of this absence, I mean that he will bear the burden of its proof for lack of being capable of proving the presence.
(Lacan, 1993, p.192)

The retroactively posited emergence of the subject in the symbolic, posited as it necessarily is from within and in terms of the symbolic in which the subject would emerge, is thus impossibly posited, but, equally, necessarily posited, on the basis of a non-being. That the emergence of the subject is then indicative of a certain lack of being (*manque-à-être*), which is simultaneously a lack in being (*manque-à-être*), situates the assumption of being-as-lacking with the subject. What is, once again, crucial here is the retrospective logic of the assignation of cause. As there is nothing beyond the symbolic available within the symbolic from which the subject would posit a ground for its being subject and nothing positable at all outwith the symbolic, the subject cannot but assume the gap upon itself whether such an assumption is acknowledged, repressed or even foreclosed.

It is this same sense of gap which necessarily pertains to the relation between the subject and desire and, thus, allows us to understand the necessity of the subjective assumption at work in the judgement which would characterise the ethical act. Desire is, for Lacan, always the desire of the Other, but it is also necessarily desire of the

Other subjectively mediated. Desire may be seen to emanate from the Other in the question *Che Vuoi?* – *what do you want?* - but this question, or, more accurately, the impression of this question, does not in itself form the 'substance' of desire. The question of *Che Vuoi?*, and thus language itself, is indicative of the lack in the Other insofar as the Other would not be asking anything of 'me' were it not for its lacking *something* and thus desiring *something*. But, insofar as the subject is always necessarily the site of this question, the subject is that to which the question is addressed, that without which there could be no question, the desire of the Other is always a desire of the Other for the subject. It is thus that desire can be understood to be at one and the same time the desire of the subject and the desire of the Other. Desire, as desirousness, the very movement and possibility of desire emanates from the Other, from the realm of and the incompleteness of the symbolic order. Such desire, though, must be experienced by the subject in order for it to be recognised and thus instantiated as desire. It is in this sense that the desire in question, the desire which would be understood to be the cause of the subject, is particularly the desire of that subject, is 'one's desire'.

This is also to suggest, however, that the desire in question does not exist as such. If the desire were to exist prior to its being subjectivised, it would be exclusively the desire of the Other and would not thus be desire at all insofar as the Other would not be (experienced as) lacking and thus there would be no lack in relation to which the subject could emerge. It is thus that desire, as 'one's desire', must be brought forth in speech by the subject:

There is only one resistance, the resistance of the analyst. The analyst resists when he doesn't understand what he is dealing with. He doesn't understand

what he is dealing with when he thinks that interpreting is showing the subject that what he desires is this particular sexual object. He's mistaken. What he here takes to be objective is just pure and simple abstraction. He's the one who's in a state of inertia and of resistance.

In contrast, what's important is to teach the subject to name, to articulate, to bring this desire into existence, this desire which, quite literally, is on the side of existence, which is why it insists. If desire doesn't dare to speak its name, it's because the subject hasn't yet caused this name to come forth.
(*ibid.*, p.228)

This process of naming could be understood to be conterminous with the subject's traversing of the fantasy. In response to the perceived question of and from the Other, *Che Vuoi?*, the subject is brought into confrontation with the limit of the symbolic order, a limit attested to in the lack in the Other which would be the condition of possibility of the advent and reception of the question. In order for the question to be received, the subject must (have) come to be in the realm of the Other and thus is constituted as recipient of the question only insofar as it, the subject, is lacking, is not all. This double lack, as it cannot be confronted as lack, is subjectively experienced as *objet petit a*, that which would mark and cover the place of the lack, safe-guarding the subject from experiencing the lack itself in its devastating lackingness. *Objet petit a*, insofar as it is no-thing, insofar as it has no content as such, insofar as it is that which marks the place of that which is by definition unsignifiable, must be determined with some 'content' by the subject. That is to say, the subject must, in order to maintain the functioning of the mark of the lack, put something in its place. This putting of something in the place of the *objet petit a* is clearly not, however, to attain *objet petit a* or to attain any knowledge of what it might (impossibly) 'be'. In terms of *objet petit a*, whatever substantial content is conferred upon its place is never 'it'. If fantasy can be represented as the subject in relation to *objet petit a*, $\exists a$, it is always such that *objet petit a* is strictly not there, in the fantasy, as such. That is to say, that which

would be the original cause of desire is not accessible for the subject. By naming its desire, the subject is not naming *objet petit a*, rather in naming its desire, the subject is naming that which, always unconsciously, had sedimented in the place of *objet petit a*. In a sense, in naming its desire, the subject could be understood to be naming its mistake. In this sense, naming one's desire or traversing one's fantasy is but a reconfiguration. It does not render fantasy obsolete but allows one to move beyond the illusion inherent in that fantasy. In so doing it also entails a reconfiguration of the subject. In naming its desire the subject does not reveal itself as the hitherto eluded cause of its own desire, rather it assumes responsibility for the desire that is in it.

The point here is, thus, not that the subject could ever somehow be objectively shown to be the 'true' cause of his or her desire but rather that the very notion of cause requires an assumption. There cannot be a truth outwith a system which would determine it as true. Whatever is taken to be the cause of an effect is constituted in this relation by the subject who takes it as such. This is the case, a fortiori for the subject's desire. Even if one were to contend that the desire in one is caused by the Other and is thus the Other's responsibility, one has posited oneself as the cause of this thought or contention. If, in the analytic setting, one accepts the analyst's interpretation of the cause of one's desire as the accurate interpretation, then one has necessarily not uncovered the cause which would illuminate why one would (want to) accept the analyst's interpretation of the cause of one's desire. That is, one simply shifts the emphasis and postpones the properly subjective response. All cause, and thus, a fortiori, the cause of all desire, is ultimately something which has to be subjectively posited and thus subjectively assumed.

Judgement, then, pertains to both an act itself and stands against the act, in the sense that the subject must inscribe itself in the act and in the judgement of the act in order for the act to be considered a subjective act. That is to say, the conditions of an act being considered ethically would be the subject's positing of itself within the act and the only ethical judgement which could be made of the act would be one made by the subject in which the subject bore the whole weight of the judgement. There is, ultimately, no appeal to anything outwith the subject. It is in this sense that Lacan's ethics entails the adoption of 'the point of view of the Last Judgement' (Lacan, 1992, p.313).

The question, 'Have you acted in conformity with the desire that is in you?' (*ibid.*, p.314) is the fundamental question of ethics insofar as it assumes 'the force of a Last Judgement' (*ibid.*). Not giving ground relative to one's desire entails the assumption of the cause of one's desire. This is not, however, a position one could ever assume once and for all. Assuming the locus of cause is to reconfigure one's position in relation to the Other and thus to reconfigure one's very subjectivity. The ethical point here would thus be a point of always re-beginning. That 'the only thing of which one can be guilty is of having given ground relative to one's desire' (*ibid.*, p.319) cannot be reduced to a description of the mechanism of guilt as it arises in response to the demands of the super-ego, rather it points beyond the ego / super-ego relation to the stance the subject would assume in the face of the law. Giving ground relative to one's desire would be tantamount to assuming a position of having no choice, a position which in order to be assumed would necessarily entail the denial of one's relation to the Other. Not giving ground relative to one's desire is to assume the responsibility for one's own position of subjectivity. It is, again, the logic of *Wo Es*

war, soll Ich werden, the moment in which the subject (\exists) assumes a position in that place which would otherwise be occupied by the law, by the Other.

Such a formulation of ethics is clearly one which cannot appeal to any pre-existent measure by which to adjudicate. In this sense, the ethical moment would entail a radical decision, *décaedère*, a cutting away, insofar as it necessarily cannot rely upon the pre-existing order of things. If the moment of assumption is properly to be a moment of assumption, then this separates both the subject coming to be and the desire which would be attested to in the creative act of speech from what had gone before. If it does not, then there has been no assumption. That is to say, any recourse to the Other here would be tantamount to ceding on one's desire, rendering desire not 'one's' but (wholly and impossibly) the Other's. If the law and thus the moral can attest to no substantiation, then the weight of this responsibility, insofar as the law and the moral figure for the subject, must be taken up by the subject.

The logic at work here might be presented as the distinction between decision and calculation. A calculation would be that which would rely upon the pre-given, it would be internal to the logic of a system. A decision, on the other hand would be that which must necessarily be taken at the limit of the system. Calculation, as its mathematical use would suggest, is a process which would pertain to a system which would purport to be, as far as it goes, self-contained. Calculation is the enactment of or on the basis of formulae or prescription, it is that which would follow from a rule or law; if A, then B. Any such calculation would, however, necessarily point to its own limit in the same manner that the law necessarily points towards its own lack of ground or substantiation. As Derrida has pointed out, 'if calculation is calculation, the

decision to calculate is not of the order of the calculable' (Derrida, 1992, p.24). That is to say, the moment of subjective involvement would be indicative of the failure of the calculation to justify itself. There persists a gap wherein the subject emerges as the one who ascribes to the law or places itself before the law. Phrased otherwise, the subject necessarily assumes the responsibility for the decision to calculate in such and such a manner or assumes the responsibility to calculate at all. Such a moment, indicative of the insistence of the limit of the system or the law, would necessarily also be indicative of some*Thing* of the outside of the law, some*Thing* beyond the symbolic order, some*Thing* of the Real.

This logic can be seen in the famous scene of Alan Pakula's film *Sophie's Choice* when Sophie is forced to choose which of her two children will be allowed to live and which will be taken to the gas chambers. What is crucial here is that there are effectively two choices which Sophie has to make, the emergence of the second contingent upon the first. Where what is usually emphasised is the horrendous choice Sophie has to make between her son and her daughter, who will be allowed to live and who will die, what this glides over is the fact that before this Sophie has to make the choice to choose. She is of course free not to choose at all, in which case both her children will die. The second choice, as to who will die, appears to be the impossible horrendous choice because it permits no appeal to a measure of calculation. There is no way of 'working out' which choice is the 'best' choice. It is a pure decision and as such the full weight of that decision falls on Sophie. The first choice can appear to be much more straight-forward. There is a clear appeal available here to a measure of calculation; the death of one child is preferable to the deaths of two. Understood in this way, one could argue that the first choice is not in fact Sophie's choice at all.

There is nothing to decide here, only a 'simple' calculation to perform. What such a reading ignores is the fact that a choice is made despite the availability of a calculative measure. Sophie still chooses this calculation. She chooses to calculate and to calculate in this way. Why is it that the death of one child is preferable to the death of both? Sophie, in choosing, assumes the weight of this decision upon herself. One could even argue that a similar logic of calculation is evident in the second choice, that is, that it is conceivable that the preservation of the boy child is clearly the obvious choice to make. The politically correct 'unacceptability' of this second calculation serves to highlight the weight of subjective assumption in the acquiescence to the mode of calculation. That Sophie might have chosen the boy's life over the girl's would for many people be indicative of an unfounded choice, the appeal to 'reason' here, that boys are inherently more 'valuable', would be dismissed as barbaric chauvinism, that is, an untenable attempt at justification. What this would miss is that ultimately any justification, including the justification that one death is preferable to two, would be untenable. The decision made, the choice entered into, is, properly, the choice of this justification, thus assuming the ultimate weight of and for that justification. Conversely, the position many would take towards the film, that the second choice is utterly random, that there is no way to decide between the boy and girl, is equally to assume a position on the matter. Even the admission of incalculability, the submission to random chance, is a choice. The calculation, one death over two or boy over girl, may provide the answer to the choice but the subject of the choosing is still responsible for positing and accepting this mode of calculation. The assumption of the impossibility of calculation, the assumption that there is no relevant difference between the boy and the girl, also provides an answer, i.e. choose randomly. That this random choice must still be made allows us to observe what

would have been less evident but ultimately just as existent in the case where a mode of calculation was available, that the choice made is made utterly by the subject.

This example illustrates again why it is that Lacan insists upon there being two moments of judging essential to the ethical. There is the judgement to act, which is necessarily the judgement to act in this or that way, and then there is the judgement of the act; was my choice to act and act in this way, the right choice? Importantly, the logic here is not chronological. The two instances of judgement on which Lacan insists cannot be simply reduced to a before and an after. Rather they are two instances of judgement which would insist at two different levels. The judgement to act would necessarily entail the judgement to act in this or that way, to act in what the subject believes to be the right way. A judgement conferred upon the act, similarly, would entail not only a judgement that this was or was not the right way to act, but also the judgement to judge at all. Judgement itself is an act.

The second moment in both instances of judgement here necessitates that the subject assumes the weight of the first, that this act (or this judgement) was in fact 'my' choice and in this sense the act is the act of assumption of responsibility. Clearly, there is no pre-given 'right way' against which to measure the judgement of the act. In this sense, the ethical can be seen to redouble to the position of assumption of responsibility. That there is no right answer, as such, at any level of acting, places the burden of ethics always with the subject.

That the subject does act is to indicate the existence and the insistence of desire. This is what would define the act as an act as opposed to mere behaviour or happening. An

apple may fall from a tree, but it is not understood to have acted. It is only in the act, which is always and necessarily a subjective act, that desire manifests. This is then to suggest that the subject is always responsible for the act in which it is implicated. In assuming this responsibility upon itself, in assuming its own subjectivity in this act, the subject inscribes meaning to the act. The assumption of responsibility can thus be seen to be coterminous with the assumption of desire as 'one's desire'. As we have seen, such assumption of desire as one's 'own' cannot be reduced to the naming of something which is already there. Desire may well be the desire of the Other, but it is still desire of the Other in the subject.

What is crucial here is the non-totalisable nature of desire. Desire, in order to (continue to) be desire must remain, essentially unsatisfied. Desire, by its very nature, is incomplete. It is as such that desire can never be entirely subsumed on the part of either the subject or the Other. Both, as we have seen, are lacking and it is only as such that they (are understood to) desire. The naming of one's desire is thus necessary, insofar as that desire did not exist as a pre-given. It is not a case of recognising the desire of the Other in the sense of what would be absolutely the Other's desire. Neither, however, is it a case of simply creating desire in the nominative process. Desire as desirousness, what we might call pure desire, will, because of this displaced nature, always persist. Naming one's desire, like the attainment of that which would have sedimented in the place of *objet petit a*, is always and necessarily going to be a case of *not-all*. In this sense, there is always something ineffable in desire. This ineffable core would persist in the insatiable *Che Vuoi?*

What this would point to is that the assumption of responsibility cannot be reduced to a subjective self-sufficiency. That any judgement, while it cannot be reduced to the Other, to law, also necessarily entails a re-inscription in the field of the Other. This re-inscription can be understood in the dialectic of speech. While language, which can be understood as coterminous with the Other, would be a necessary condition of speech, the two are also radically incommensurate. Language does not in and of itself have meaning, language does not speak. Speech, as the subjective intervention in the field of language, which necessarily relies on language, is the forging of meaning. But speech must also be speech for someone. Thus, the ethical moment, while it is radically subjective, while it entails a subjective assumption of responsibility, is also and still deeply bound to not only the field of the Other but to the other in the sense of another being supposed to understand.

In terms of the ethical and its relation to the legal or moral, this would mean that the judgement taken must re-inscribe itself as a law in the sense of an inscription of right and wrong. In this way we can further clarify the distinction between the ethical and the legal. The legal is inscribed as permitting and prohibiting. What can never be accounted for in this inscription is the moment of acceptance, the ground of the law, the final reason which would uphold the law. This grounding can only be assumed by the subject. This moment of assumption would define the ethical in contradistinction to the law, in that it cannot in itself be reduced to the law but at the same time it cannot subsist without the law and would require the inscription of the law in order to be made at all and the re-inscription as law in order to be seen to have been made at all. The ethical would be (indicative of) the breach in the symbolic, in the law, and as such cannot exist in utter separation from the symbolic, utterly independent of the

law. At the same time the ethical, the moment of subjective judgement must be brought into the realm of the symbolic in order for it to be understood to have been enacted or made. In this sense, it can be seen that the ethical is not something which could be dwelt within or taken up once and for all. The ethical is necessarily pulsatory and as such must be taken up again and again. To assume the weight of the ethical act is to assume the position of the Last Judgement but even the Last Judgement must be made again.

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