

ETHICS AND CONTINGENCY. ON ETHICAL EXPERIENCE AND ITS EXPRESSION AS TESTIMONY

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Abstract

This essay is an attempt to clarify the two fundamental dimensions of the *ethos* – ethical experience and its eminent expression in testimonies – following the thread of contingency as a crucial dimension of ethical experience. First, I address the notion of experience: I claim that in all fundamental human experiences there is an element of contingency, constitutive of their meaning, that cannot be “neutralized” in the element of the concept; second, I develop the notion of ethical experience and show that it is an essentially contingent experience. Finally, I argue that the contingency of ethical experience is most adequately expressed by testimonies and sketch a notion of a “comprehensive phenomenological ethics” that makes of testimony a genuine ethical category.

Introduction

As a discourse, ethics aims to disclose the many dimensions of the *ethos*. The *ethos* is the phenomenon of morality in all its complexity. It covers not only the realm of “common morality” but also the non-philosophical and philosophical thematization of ethical issues. The *ethos* is thus an infinite, radically open realm of meaning; consequently, ethics, as a comprehensive investigation of the *ethos*, is inexhaustible.² Throughout this essay, I consider the term “ethics” in a restricted

¹ I thank Anastasia Kozyreva and Daniel Pucciarelli for their comments on a first version of this paper.

² As *new* ethical issues emerge regularly (think, for instance, of biomedical issues arising from recent progress in biotechnology or sustainability issues in environmental ethics), the infinite and radically open character of the *ethos* is today particularly apparent. This, however, should not make us forget

sense as a *philosophical* discourse aiming to make intelligible the different dimensions of the *ethos*.

A philosophical ethics has different layers to it. This essay is an attempt to clarify the two fundamental ones – ethical experience and its eminent and most adequate expression in testimonies – and their mutual relation, following the thread of contingency as a crucial dimension of ethical experience. By “ethical experience” I mean the non-transferable, first-person experience of what I call “ethical difference”, i.e., *the actual givenness of the irreducibility of “good” to “evil” and vice versa*. This is a *philosophical formula* aiming to state something true about ethical experience; however, inasmuch as the meaning of ethical experience is said in the mode of a discourse that does not inscribe in itself the *contingency intrinsic to ethical experience*, it will remain necessarily abstract regarding the concrete, personal element in which our factual life takes place. To understand the nature of ethical experience it is imperative not only to examine how this difference is given and “lived” by us as an irreducibly personal and contingent ethical truth, but also to pose the question about *how to speak of it* – in other words, what kind of discourse is suitable to give voice to ethical difference in its essential rigor? This question leads to the notion of “ethical testimony” (hereafter, simply “testimony”).

By “testimony” I mean a narrative that aims to express ethical difference. Although “narrative” is not *opposed* to “theory”, there is a significant difference between the two. As Ricoeur puts it, a narrative involves “a sort of understanding (...) which is much closer to the practical wisdom of moral judgment than to science, or, more generally, to the theoretical use of reason.”³ In its minimal expression, this “practical wisdom of moral judgment” is, as attested by testimonies, the primal fact that *there is* ethical difference. In my view, the truth or “object” of testimony is always ethical difference, even though what is most apparent in them is the devastating effects of *evil* acts committed by human beings against other human beings. The category of evil is, however, inseparable from that of good to the point that the *irreducible polarity* good/evil, before it is determined as a fixed content, precedes any conceptualization of good and evil.

In what follows, I examine all the previous basic notions and distinctions that configure the very core of the *ethos*: ethical experience, ethical difference, and testimony; further, on the basis of this discussion, I address the issue of the nature of ethical *theory*.

that this character is a product of the *intrinsic* historicity of the *ethos* and therefore an essential constituent of it.

³ Paul Ricoeur, “Life in Quest of Narrative”, in David Wood (ed.), *On Paul Ricoeur. Narrative and Interpretation* (Routledge, London, 1991), pp. 20–33.

1. Ethical Theory, Ethical Discourse, and Ethical Difference

The core of the *ethos* is what I call “ethical difference:” the irreducibility of “good” to “evil” and vice versa. All thematization of the *ethos* – philosophical or otherwise – presupposes this fundamental “polarity” (“good” / “evil”) expressed in ethical difference. The latter is not, however, a theoretical construct, but a *given*, a given that manifests itself to us as an experience. As such, it is susceptible of being examined from a phenomenological perspective. In particular, this means that ethical difference cannot be *proved*.⁴ Moreover, ethical difference is *itself* an experience whose meaning cannot be entirely captured by, and conveyed in, a purely theoretical discourse. Ethical experience may be described as a “primal fact” in the sense that it is a *contingent event* that cannot be either foreseen, mastered, or “produced” through a conceptual thematization of it; it is “primal” in that only this kind of event – ethical experience – allows us to access to the ethical realm. In a sense, ethical difference as given in experience is the primordial meaning of the ethical *as such*.

On the basis of the primordially of ethical difference as experience, the question about the nature of ethical theories has to be entirely reconsidered. In effect, if ethics is ultimately “grounded” in an experience that is essentially contingent, i.e., in an experience whose ultimate intelligibility is “revealed” to us *in and by its very occurrence*, ethics is essentially un-totalizable. The radically open character of ethics is not a by-product of the intrinsic limitation to, and historicity of, all forms of “knowledge”, but a necessary consequence of the fact that ethics is, as it were, “opened” from the inside out by an un-totalizable, un-conceptualizable

⁴ Phenomenology – the methodology adopted in this study – cannot prove anything at all – in the deductive sense of the term (and even less confirm or falsify hypotheses as empirical sciences do). (Cf. Emmanuel Levinas’s “Réflexions sur la technique phénoménologique”, in *Cahiers de Royaumont: Husserl* (Paris: Les Éditions de Minuit, 1959), pp. 95–118, esp. pp. 96–97.) Certainly, there is room for rigorous arguments in phenomenological discourse: arguments, though, always necessarily *presuppose* the taking place of certain fundamental human experiences (amorous, aesthetic, ethical, and so on) that constitute the *phenomenological origin* of phenomenological discourse – in this sense, it may be said that this essay investigates the *phenomenological genealogy* of ethical theories. The fact that ethics has in ethical experience its phenomenological origin, its source of intelligibility, does not mean that it is *deducible* from it through any logical or transcendental procedure. Phenomenological “analysis” is always *a posteriori: set in motion, informed, by experience itself*, it aims to reveal all that which gives our concrete experiences their singular character, density, depth, and “style”. The meaning of experience is not merely disclosed by phenomenological analysis: it belongs to experience *itself*. As such, phenomenology is a “first-person perspective” inquiry, but it cannot simply be identified with a particular form of *transcendental* philosophy. Cf. my “Ética y testimonio. Ideas para una fenomenología integral del *ethos*”, in *Investigaciones fenomenológicas. Revista de la Sociedad Española de Fenomenología*, volumen monográfico 4/II (2013): “Razón y vida,” pp. 291–315.

“primal fact:” ethical experience. As a consequence, there are no *fundamental* rational principles that could serve as the *basis* for ethics: ethics has a necessarily *a posteriori* dimension.⁵ If so, an ethical *theory*, understood as the attempt to build a *systematic account of the ethos based on fundamental rational principles out of which basic norms for action could be aprioristically derived*, is impossible to achieve. On the contrary, a *phenomenological ethics* is a non-exclusively theoretical, philosophical discourse that aims to address ethical difference precisely as it is given to us in experience and inscribe in itself the traces of its contingency.⁶ As testimonies express this contingency eloquently, such an ethics must be built in constant reference to them.⁷

Thus, a clear line must be drawn between an *ethical theory* and a phenomenologically-informed *ethical discourse*: whereas an ethical theory could never fulfill its aspiration – an aspiration that belongs to its essence and defines its procedures as a theoretical project – the latter aims to be capable of welcoming ethical difference in its radical contingency. What is usually called “ethical theory” is not, however, the opposite of an ethical discourse: it may well be a legitimate dimension of it. That there are irreducible ethical discourses expressing irreducible ethical experiences is a fact, a *primal* fact that cannot be proved. As will be argued later, *some* ethical discourses are “faithful accounts” of ethical experience as lived by a “subject:” these are testimonies. Testimonies are “narratives” whose intelligibility lies exclusively in that they explicitly address – though not from a theoretical perspective – ethical difference, which, *as such*, is irreducible and cannot be either

⁵ This does not rule out that there may be some principles that could help us in guiding our ethical behavior and decisions. However, even when these principles could be found, they would not be strictly fundamental in the sense that they would be too formal, very frequently in conflict with one another, and essentially limited (they cannot be totalized in a complete series).

⁶ To place contingency at the heart of ethical experience does not amount to building an ethics that would give up all aspiration to truth and universality. It will be seen shortly how the ethics of contingency sketched in these pages welcomes a certain kind of universality and is not incompatible with a certain notion of truth. It is clear, though, that if an ethics of contingency aims to preserve these two notions – truth as well as contingency – it must rework and resignify them on the basis of the core phenomenon that articulates its discourse: ethical experience and its eminent expression in the plurality of testimonies.

⁷ As will be shown, it is because of the nature of ethical experience that its meaning must be expressed and conveyed in a *plurality* of ethical discourses: what ethical experience (both in its “eidetic character” – ethical experience as opposed, say, to amorous or aesthetic experience – and its “eventful character” – ethical experience as an event affecting us each time it takes place) *is* determines *how* it should be investigated (in all cases and domains, philosophical method must correspond to the being of the ‘object’ inquired into). It is not only the case that ethical experience is lived in such a way that a single theoretical discourse could not exhaust its meaning, but also that its meaning can only be expressed and conveyed in a plurality of testimonies.

explained or analyzed⁸. Specifically, this essay assumes that all attempts to neutralize or reduce ethical difference, especially through any version of naturalism (i.e., all attempts to *naturalize* it), are doomed to fail, and that despite all the “progress” made in the disciplines that have integrated a naturalistic outlook into their research programs, all the burden of the proof is still on the side of such disciplines: not a single plausible, positive account of how ethical difference can be *hermeneutically* reduced to natural (and, more generally, non-normative) elements has yet been proposed.⁹

Thus, in its minimal form, the good emerges or manifests itself – and by so doing it affects each of us – as the irreducible character of ethical difference: provided we are “taken” by ethical difference, we just cannot conflate good and evil. Actually, ethical experience is the very experience of this “ethical impossibility” of conflating good and evil, i.e., abolishing ethical difference. It is an *ethical* impossibility because it is always logically possible to become cynical and live our lives *as if* there were no ultimate difference between good and evil. For some of us, though, this would entail to lose a substantive component of our (moral) selves – perhaps *the* essential component of our (narrative) identity – to the point of betraying our innermost sense of integrity.¹⁰

⁸ G. E. Moore’s famous words in *Principia Ethica* may well be recalled here: “What is good? My answer is that good is good, and that is the end of the matter. Or if I am asked, ‘How is good to be defined?’ My answer is that it cannot be defined, and that is all I have to say about it. But disappointing as these answers may appear, they are of the very last importance” (G. E. Moore, *Principia Ethica*, Cambridge University Press, Cambridge, UK, 2000, §6.).

⁹ As a consequence of the “doxastic hegemony” of naturalism – by “doxastic” I mean that it is not the hegemony of a reasonably grounded philosophical position, but the extended dominion of a “world-view” than combines all sorts of elements, philosophical and otherwise, and that extends itself far beyond the academic domain – naturalistic accounts of ethics are abundant these days and are to be found everywhere (including the projects aiming to “naturalize phenomenology”). “Naturalism” does not mean just physicalism (the view, to put it with Christian Kanzian, that holds that “there is one physical world formula and every truth outside the formula can be deduced from it”), but also what Kanzian labels “naturalism in a liberal sense”, i.e., the view that the only things that exist are those than can be explained by natural science – not just Physics (see “Naturalism, Physicalism, and Some Notes on ‘Analytical Philosophy’”, in Antonella Corradini, Sergio Galvan, E. Jonathan Lowe (eds.), *Analytic Philosophy Without Naturalism* (Routledge: New York, 2006), pp. 89–93, esp. pp. 89–91).

¹⁰ For a clear, brief account of narrative identity see Paul Ricoeur, “L’identité narrative”, in *Esprit* 7–8 (1988), pp. 295–314. In order to clarify the notion of integrity, a careful analysis is needed. In the context of our discussion, though, it suffices to observe that “integrity” describes the fact of being aware of one’s being “destined” to responsibility and knowing that one is capable of inscribing this responsibility into the world, i.e. exercising one’s freedom to fulfill the demands of responsibility. I use the term “integrity” and not “dignity” because I am not referring to an *essential* trait of human beings, but to a quality of one’s experiences or an aspect of one’s subjective position (regarding

To sum up, throughout this paper it is assumed that *there is* ethical experience and that this is a *sui generis* kind of experience – as all other fundamental human experiences are: religious, amorous, aesthetic, and so on. In what follows, the view is defended that *the contingent character of ethical experience compels us not only to reconsider the very idea or nature of an ethical theory, but also to conclude that even the aim – the ideal – of building an ethical theory, a “system” of ethics, a “total moral view”, is deeply misguided: all ethics is necessarily un-totalizable; all ethics is an ethics of contingency.*

2. Contingency, Phenomenology, and Ethical Experience

2.1 What is “experience”?

To live a life is to live an embodied life in a world of meaning. An experience (*Erfahrung*) is an event that takes place in the course of our life. Although it is an *interruption* in the “regular” course of a life, an experience is not itself an objective fact (*Tatsache*), but the emergence of a sense-formation that we cannot appropriate through our spontaneous sense-giving. Every life is full of lived experiences (*Erlebnisse*) that take place when our attention is shifted to the event of a particular meaning emerging, i.e., singularizing itself and thereby confronting us. Generally, though, the dynamics between “consciousness” and “world” is harmonious, as if our sense-giving invested what is constantly presented to us.

In his *L’expérience retrouvée*,¹¹ László Tengelyi proposes a phenomenological interpretation of experience in terms of an event suffered by consciousness – an event that consciousness could not master. His account captures quite well the idea of experience as a confrontation with the new and unexpected. Tengelyi characterizes experience as our encounter with a meaning that we had not prefigured or constituted *a priori*. This is why the emergence of the new can be described as an *event*. Drawing upon Husserl’s distinction between *Erlebnis* and *Erfahrung*, Tengelyi writes that, “experience – in the sense of *Erfahrung* – often manifests itself in the form of a disappointment capable of refuting preconceived anticipations, denouncing established opinions, questioning prior convictions and resisting pre-

oneself or others); as such, and contrary to the dignity of persons, integrity may be taken away by contingent circumstances of all sorts (historical, political, and so on).

¹¹ Tengelyi, László, *L’expérience retrouvée. Essais philosophiques I* (Paris: L’Harmattan, 2006), pp. 13–18, pp. 19–22.

meditated intentions.”¹² Thus Tengelyi conceives of experience as an event that precedes and surpasses consciousness¹³. An event is an interruption of our power to give meaning to things. Consequently, the emergence of the new may be described as an experience of what resists, at least momentarily, the spontaneous tendency of consciousness to constantly reestablish the equilibrium between noesis and noema.¹⁴

Moreover, there is a *sense of reality* that is awakened in experience. Of course, this is not “reality” in the objective sense of the term, i.e., as conceived in scientific disciplines. Any experience proper conveys a sense of the reality of what encounters us in it because “the idea of the formation [*amorces*] of meaning makes us understand how every experience, which is the place of the emergence of a new meaning, can be considered as an encounter and a contact with a reality independent of consciousness.”¹⁵

These analyses must be supplemented with the following crucial observation: there are *kinds of experiences*. It is not the case that each experience is, in an absolute sense, singular. If all experience were absolutely singular, we could not communicate at all: communication presupposes a shared world and a series of “common experiences” (perceptual, linguistic, and so on). At work in all communicative acts, the presupposition that we share a world presupposes, in its turn, our sharing a series – an open series – of kinds of experiences. This observation shifts the focus of the previous analysis of experience. In effect, an experience is not merely, and not even exclusively, the experience of the new, i.e., the experience of the confrontation with the unknown or the unexpected. It is, fundamentally, the eminently affective experience of an event that, *because it cannot be appropriated by consciousness*, insists and repeats itself. What emerges in this insistence and repetition is what may be called the “*eidós*” of an experience. This *eidós* points to a certain universal character of experience – “universal” in the sense that it makes possible for someone who has gone through an experience to communicate meaningful aspects of it to another who has also gone through the same kind of experience. Actually, this *eidós* works as a “hypothetical universal” constantly “tested” by the emergence of new occurrences of the kind of experience determined by that *eidós*.

An experience is a *compositum* of an *eidós* and the *singular* sense-formation that is given, as it were, in the element of that *eidós*. Thus, what defines the pecu-

¹² *Ibid.*, p. 14.

¹³ *Idem.*

¹⁴ *Ibid.*, p. 24.

¹⁵ *Idem.*

liar character of each of our experiences is *both* what is given in each experience as that which is each-time-unique in that experience – its singularity – *and* the *eidōs* that determines the nature of that experience. Consequently, an experience is an irreducible intertwining of the *eide* (the universal “kinds” or “regions” of experience: erotic, aesthetic, and so on) and the sensible “this” (*my* beloved here and now, *this* work of art, and so on) informed by each *eidōs*. Only experience in its unity is properly “real”, i.e., experience as a concrete whole of which the universal-*eidetic* and the singular dimensions of experience, taken in isolation, are mere abstractions. A clarification of this “dual” nature of experience is not enough: it is also crucial to stress the dynamic and, especially, the event-like character of experience. Experience delivers its truth each time it takes place, without us being able to capture its meaning as we thematize it. In this sense, *experience is contingent not only because we cannot produce or create it, but also because it governs the truth it delivers*. The following passage from Giorgio Agamben’s *The Coming Community* can be read as an illustration of that point:

Love is never directed toward this or that property of the loved one (being blond, being small, being tender, being lame), but neither does it neglect the properties in favor of an insipid generality (universal love): The lover wants the loved one *with all of its predicates*, its being such as it is. The lover desires the *as* only insofar as it is *such* – this is the lover’s particular fetishism. (...) The movement Plato describes as erotic anamnesis is the movement that transports the object not toward another thing or another place, but toward its own taking-place – toward the Idea.¹⁶

The passage reinforces the previous analyses and allows us to conclude that there is a dynamism intrinsic to experience: it is the movement through and in which its truth is delivered to us. Experience is sovereign: it governs over its truth, which is given and withdrawn according to the intrinsic movement of each kind and occurrence of experience. Moreover, experience has a singular, “universal”, and intelligible dimension to it. All experience is an experience of a truth: not as an abstract universal, but as given in an experience that is simultaneously singular, universal, and intelligible. The very “object” of phenomenology is nothing but experience so construed, in its “unity” or “concreteness”.

It is time now to address what constitutes the intrinsic character of *ethical* experience.

¹⁶ Giorgio Agamben, *La comunità che viene* (Torino: Einaudi, 1990), p. 4; the quote is from the translation by Michael Hardt: *The Coming Community* (Minneapolis, MN: University of Minnesota Press, 2007), p. 2.

2.2 What is Ethical Experience?

As is well known, Emmanuel Levinas identifies “experience” (proper) with “ethical experience”. In *Totality and Infinity* he writes, “if experience precisely means a relation with the absolutely other, that is, *with what always overflows thought*, the relation with infinity accomplishes experience in the fullest sense of the word.”¹⁷ Inasmuch as the encounter with the “absolutely other” is for Levinas what defines ethical experience, ethical experience becomes the quintessential experience. Without entering into the issue of how Levinas’s expression “absolutely other” is to be interpreted, let us retain the notion that an experience proper is always an experience of that which we cannot appropriate, “what always overflows thought” a *traumatism*.¹⁸

Following Rudolf Bernet, “trauma” may be defined as “the event of the encounter of the subject with something totally foreign that nevertheless irremediably concerns it and does so right in its most intimate identity.”¹⁹ The foreign character of that which we encounter in a traumatic experience necessarily refers to an already constituted subject; however, if the event is indeed traumatic, the subject cannot, as it were, reconstitute itself after the emergence of trauma as if the traumatic interruption of itself had not taken place. In this sense, it may be said that all experience is “traumatic”: it is constitutive of all experience that it traumatizes an already constituted subject in the precise sense that he or she cannot appropriate of what insists and repeats itself in the traumatic series. Now, that which traumatizes the subject in ethical experience is ethical difference. Consequently, it is crucial to see how exactly ethical difference affects the subject.

The following passage by Simone Weil in *La personne et le sacré* can help to understand the complexity of what is at stake in ethical experience. Weil writes:

¹⁷ Emmanuel Levinas, *Totalité e infini. Essai sur l'extériorité* (Paris: Kluwer Academic/Le livre de poche, 1988), p. 10. The translation quoted is from the translation by Alphonso Lingis: E. L., *Totality and Infinity. An Essay on Exteriority* (The Hague, Boston, London: Martinus Nijhoff, 1979), p. 25. My italics.

¹⁸ Levinas writes, “. . . the experience of something absolutely foreign, a *pure* ‘knowledge’ or ‘experience,’ a *traumatism of astonishment*” (ibidem., p. 73; Eng. trans., p. 71; the italics are Levinas’s). The term “traumatism” [*traumatisme*] appears only once in *Totality and Infinity*, but it becomes a genuine ethical “category” (a category that does not describe a modality of being) in *Otherwise than Being or Beyond Essence*.

¹⁹ Rudolf Bernet, “Le sujet traumatisé”, in *Revue de métaphysique et de morale*, No. 2, Avril–Juin, 2000, pp. 141–161, p. 143. The translation quoted is from the translation by Paul Crowe: R. B., “The traumatized subject”, in *Research in Phenomenology*, 30 (1), pp. 160–179, p. 162.

“You do not interest me.” No man can say these words to another without committing a cruelty and offending against justice. (...) There is something sacred in every man but it is not his person. Nor yet is it her human personality [*la personne humaine*]. It is this man, no more and no less. (...) I see a passer-by in the street. He has long arms, blue eyes, and a mind whose thoughts I do not know, but perhaps they are common place. It is neither his person, nor the human personality in him, which is sacred to me. It is he. The whole of him. The arms, the eyes, the thought, everything. Not without infinite scruple would I touch anything of this.²⁰

The passage is amazingly rich in philosophical meaning. In the context of our discussion, Weil’s passage is relevant in that it reveals the landmark of an ethics of contingency, namely, that an ethical self is something that *happens*, that *arrives* or *comes to* a subject that has absolutely no control over it, something that surpasses his sovereignty and puts it into question: an ethical self is born as an interruption of myself. This self that is interrupted and questioned in ethical experience is a self immersed in the world as a totality that allows no true beginning, a world where a new self could not be born. Without these experiences, our fate would be to become one with the world as it is. Thanks to experience, though, there is liberation from presence and transfiguration in existence.

At the core of Weil’s testimony there is a conjunction, or even perhaps an identification, of the experience of sacredness with the experience of the vulnerability of human beings. The sacred is, for Weil, the vulnerability of the human person as experienced in its impersonality and, consequently, in its radical universality. It is in this sense that it may be said that we are, to put it in Levinas’ terms, “called by the other”, and that this call might be said to attest the passage of an absolute. However, our experience of the sacred is personal to the extent that the whole of our existence becomes questioned and, moreover, *reoriented* by it: “... not without infinite scruple would I touch anything of this ...” Thus the other-as-sacred is not an abstraction, but, from an ethical standpoint, the most concrete reality: *the whole of his or her person as vulnerable life that concerns me*. The sacredness of the other manifests itself not primarily as an intelligible content – the one I can ascribe to the other’s call *qua* imperative – but as a vulnerable being whose basic or vital needs – not only physiological but also those of the soul – I am responsible for. The sacred character of the other as an ethical other does not lead us to its worship, to the ecstatic communion with that which would remain beyond the world. On the

²⁰ Simone Weil, “La personne et le sacré”, in *Écrits de Londres et dernières lettres* (Paris: Gallimard, 1957), pp. 11–12.

contrary, it is in virtue of the call that I am reborn in the world as a subjectivity oriented towards the good.

It is now necessary to consider, at least very briefly, the difficult issue of the content of ethical difference. The contingent character of ethical experience becomes even more evident by noticing that ethical difference cannot be grasped conceptually: *ethical difference is given as an un-totalizable plurality of meanings, i.e., as a radically open series of expressions of the good*. We spontaneously find these expressions in our everyday life because our life is deeply rooted in them. None of them exhausts the meaning of good. These expressions of good are not fragments of a unified or total concept of “*the Good*”. “*The Good*”, taken as such, is a sheer abstraction.

There is a way, though, of making a proper use of this notion: “*Good*” can be interpreted as the name for ethical difference in its factual plurality, a name, therefore, that does not refer to a totality, but to a multiplicity of events – sense-formations – affecting us in concrete situations and contexts. Thus, it may be said that “*the Good*” manifests itself as the emergence of a plurality of “*little goods*”²¹: ethical difference *as such* has no content. What Løgstrup holds for what he calls “*ethical demand*” can be applied to ethical difference: “*The demand gives no directions whatsoever about how the life of the person is to be served through word and action, but precisely which word and which action we must ourselves decide in each situation*”²². If this is correct, it is not possible to conceptually grasp ethical difference; if so, to build a normative ethics – understood, as I suggested at the beginning of the essay, as an entirely rational, *a priori* thematization of ethical difference – is a task impossible to achieve.

The question we now have to address is how to positively “*speak*” about ethical difference so construed, i.e., how to build a philosophical discourse capable of inscribing in itself the contingency intrinsic to ethical experience. In a nutshell, this is my hypothesis: *the inscription of contingency in ethical discourse can only take place in a philosophy that opens itself to the plurality of ethical testimonies, i.e., a philosophy informed by the kind of truth testimonies embody and convey, namely, ethical difference*.²³

²¹ I take the expression “*little goods*” from Vasily Grossmann’s *Life and Destiny* (New York: Review of Books), 2006.

²² Knud Eljer Løgstrup, *The Ethical Demand* (Indiana, IN: University of Notre Dame), p. 56.

²³ At first sight, testimony is just an *example* – surely an eminent one – of a “*proto-philosophical*” narrative capable of welcoming ethical difference in a way philosophical theorization cannot – other examples being theological, mythological, and filmic narratives. It is an open question, though, how each kind of narrative expresses ethical difference in its own way.

3. Ethical Experience, Ethical Theory, and Testimony

Roughly speaking, an ethical theory aims to elucidate certain dimensions of the *ethos* by elaborating an impersonal discourse articulated around a series of general principles. In doing so, theory fixes the dynamic reality of ethical experience in its intelligible aspect: in isolating the latter, theory does not only sacrifice the event-like character of experience, but also its constituting affective dimension. This transfiguration of the reality of ethical difference into knowledge takes away its force, its violence, its power to move *each* of us. Thus, the work of theory operates on the basis of the forgetting of this primal experience of reality as a traumatic, affective contact with the concrete, irreducibly personal reality of ethical experience. As poetry expresses the thing in its savage state before it becomes domesticated by knowledge, a “phenomenology” aiming to address ethical experience without reducing it (i.e., to something it is not and therefore destroying it as such) must at least attempt to inscribe ethical difference in ethical discourse without neutralizing it in the impersonal element of a theoretical discourse.

Now, whereas an ethical theory neutralizes, annihilates the traumatic, contingent element of ethical experience, testimony not only welcomes ethical difference, but it is born out of its demands and aims to remain faithful to it. How exactly testimony can do this is a very difficult matter. In what follows I will limit myself to sketch a very broad characterization of the nature of ethical testimony.

C. A. J. Coady’s concept of testimony in his classic book, *Testimony. A Philosophical Study*, is a good point of departure to discuss the notion of testimony.²⁴ Coady defines testimony as a statement (conceived as a form of speech-act in John Searle’s sense) to which three conditions apply:

A speaker S testifies by making some statement p, if and only if: (a.) his stating that p is evidence that p and is offered as evidence that p. (b.) S has the relevant competence, authority or credentials to declare truly that p. (c.) The declaration of S that p is relevant in some dispute or unresolved question (which can be, or may not be, p?) and is directed to those who need evidence on the matter.²⁵

In this view, based, as Coady himself admits, on the juridical or legal conception of testimony,²⁶ a testimony consists fundamentally in the evidence, provided

²⁴ C. A. J. Coady, *Testimony: A Philosophical Study* (Oxford: Clarendon Press, 1992). The ethical dimension of testimony, as I develop it in this essay, has been generally ignored by the vast majority of analytic – mostly epistemological – approaches to testimony.

²⁵ *Ibid.*, p. 42.

²⁶ *Ibid.*, p. 25.

by an individual who can be trusted on the basis of his or her “competence, authority or credentials”, that a statement *p* about a certain “unresolved question” is the case. Testimony so defined does not depend on the link between the witness’s declaration and the reality described (this reality could *in principle* be authoritatively described by anyone else), or on the sincerity of the witness (the witness’ commitment to the veracity of its discourse); consequently, in Coady’s view, false testimony is still a form of testimony.

My account of testimony is radically divergent from Coady’s. First, because *testimony does something fundamentally different than presenting evidence that such and such is the case: it “merely” attest ethical difference*. What is at stake in the testimonies of Primo Levi, Robert Antelme, Jorge Semprún, or Claude Lanzmann – just to mention a few that are very well-known – is not an accurate or faithful description of actual events, but the attestation of ethical difference, i.e., *an ethical-absolute that interrupts the course of a life as it necessarily develops itself in a particular historical context*.²⁷ Surely, reference to actual events is given in most testimonies; also, the witness certifies that certain historical events actually took place. However, the “object” of testimony – ethical difference – transcends any given historical horizon – this is why ethical difference can be attested by theological or mythological narrative, where all historical horizons are transcended. Second, in my conception of testimony, false testimony is a contradiction in terms: testimony cannot be but true. In effect, what I call testimony is *itself* the expression of a truth – ethical difference. Thus, there is no *distance* between testimony and its truth; this is why testimony cannot be made un-true.²⁸ Let us recall the passage from Simone Weil: *attesting the vulnerability of others in the element of language making it thereby present to others for them to see it for what it is and affirming our responsibility for it* – none of this could ever be made un-true: without this ultimate “ground”, there would be no ethics at all.

I claimed that testimony is the affirmation of ethical difference as an ethical absolute. One finds this claim in some of the most insightful accounts of testimony:

²⁷ Most of what I have to say about testimony comes from a sustained study of some of the testimonies of the survivors of the *Shoah*, especially Primo Levi’s *Se questo è un uomo* (Torino: Einaudi, 1989 (CD-Rom ed.)) and *I sommersi e i salvati* (Torino: Einaudi, 1986), Jorge Semprún’s *L’écriture ou la vie* (Paris: Gallimard, 1994), Robert Antelme’s *L’espèce humaine* (Paris: Gallimard, 1947), and the extraordinary film by Claude Lanzmann, *Shoah* (1985). If I do not explicitly refer to these and other testimonies throughout the essay, it is because what interests me the most is the philosophical significance of the very *existence* of testimony and not so much its particular instantiations.

²⁸ I am thus rejecting any notion of truth as correspondence between a statement and a matter of fact. The truth of testimony is closer to the truth of art: it is neither merely self-referential, i.e., radically immanent, nor “re-presentational” or “mimetic” in any strong sense of the term.

testimony attests the emergence, the truth, the demands of the ethical absolute.²⁹ In the context of our discussion, testimony attests ethical difference as an absolute, namely, the impossibility of reducing good to evil and vice versa. The “original ethical experience” is thus that of a “subject” being traumatically affected by the ethical absolute and without being able to appropriate it as a unique and univocal signifier. Certainly, this experience is not outside time, but it breaks into the temporality of the “subject” who becomes, then, transfigured by it. Ethical difference remains absolute despite every – otherwise inevitable – determination or specification of it. Accordingly, this absolute is, one might say, *the very intelligibility of the ethical as such*. We can now perhaps see more clearly that all normativity and all ethical theories are ultimately grounded in ethical experience so construed.

A *comprehensive phenomenological ethics* is an ethics rooted in the *ethos* that thematizes. The *ethos* has different layers or levels. Each of these levels expresses a certain kind or aspect of truth; moreover, they must be thought of in their constitutive tension. Thus, I propose to distinguish between the following different layers of the *ethos*. These distinctions should not be taken either as rigid, fixed conceptual distinctions, or as actual isolated phenomena:

(i) *The ethos as the realm of “common morality”* where we act and judge conducts, actions, institutions, etc., according to two opposite kinds of basic terms: deontic or normative – for instance, “norm”, “duty”, “right” – and axiological or evaluative – for instance, “value”, “good”, “value judgment”.³⁰ The explicit, conceptual thematization of these fundamental notions, their reciprocal relations, and the clarification of the relation between the normative (“what should we do?”) and evaluative (“what is intrinsically good?”) dimensions of the *ethos* is the aim of a theory of common morality. In everyday attitude, though, our moral actions and judgments are perceived neither as emerging from ethical experience nor from a well-grounded ethical theory: we perform these actions and state our judgments without thematizing their ethical status.

(ii) *The ethos as thematized in a transcendental-phenomenological account of the experience of the other in general*. Although it has important normative dimensions to it, this approach to the *ethos* develops itself as a “neutral” and “impersonal”

²⁹ See, for instance, Paul Ricoeur’s “L’herméneutique du témoignage” in *Lectures III* (Paris: Seuil, 1994) and “Emmanuel Levinas. Penseur du témoignage” in *Lectures. Aux frontières de la philosophie* (Paris: Seuil, 1994), pp. 81–103 (Eng. trans. David Pellauer, “Emmanuel Levinas. Thinker of Testimony”, in Mark I. Wallace (ed.), *Figuring the Sacred: Religion, Narrative, and Imagination* (Minneapolis: Fortress Press, 1995)), and Levinas’s *Autrement qu’être ou au-delà de l’essence* (La Haye: Martinus Nijhoff, 1978, § 5.2, “La gloire de l’infini”); Eng. trans. Alphonso Lingis, *Otherwise Than Being or Beyond Essence* (Pittsburgh, PA: Duquesne University Press, 2006).

³⁰ See Maliandi, Ricardo, *Ética: Conceptos y Problemas* (Buenos Aires: Biblos, 2019), pp. 35–38.

discourse. The results of this kind of analysis are foreign to testimonies, which are irreducibly first-personal narratives of ethical difference.

(iii) *The ethos as revealed by the event of ethical difference.* This event takes place as an originary contact with the “ethical-real”, that is, the eminently affective, non-entirely conceptualizable experience of ethical difference. This is the level of the experience of the facticity of ethical difference proper: there is the irreducible difference between good and evil and of this facticity there is an experience. The eminent expression of ethical difference is testimony in its actual plurality.

(iv) *The ethos as elucidated by the plurality of testimonies.* A testimony is not a *mediation* between ethical experience and ethical theory, but a form of narrative that “integrates” to its discourse the positive landmarks of ethical experience – in particular, its contingency. By doing so, it becomes a primary source to understand the nature and scope of ethical experience (the passage by Simone Weil examined earlier illustrates this quite well) and the corresponding structural limitations of ethical theory. Ethical truth is discursively conveyed through testimony, but testimony is already a response to truth as revealed by ethical event. A testimony is thus a kind of narrative whose structure and meaning is in strict correspondence to that of ethical experience.

(v) *The ethos as manifested in ethical theories.* The idea of ethical theory must be re-interpreted on the basis of the previous discussion. An ethical theory has *conditions* that cannot be overcome by establishing a solid theoretical foundation for it or by refining its conceptual apparatus: it is not an autonomous discipline. An ethical theory that conceives of the intelligibility of the ethical as depending solely on conceptual analysis or, more broadly, exclusively as a result of moral reasoning, denies the singular, dynamic, contingent, affective character of ethical experience, which is expressed in the first-person perspective as testimony. If separated from the most vital dimension of the *ethos* – that of ethical experience proper and its expression in testimonies – an ethical theory will remain necessarily abstract. This is not to say, though, that an ethical theory is necessarily heterogeneous with a comprehensive phenomenological ethics. An ethical theory could be construed, for instance, as an epistemological questioning of such an ethics.

These levels should be interpreted as different aspects or dimensions of a single, infinite ethical discourse. A comprehensive phenomenological ethics takes into account at least all of these levels of the *ethos*. For such an ethics, it is imperative that ethical discourse remains genuinely open to the plurality of testimonies that bear witness of ethical experience and willing to investigate the far-reaching consequences of conceiving of testimony as an ethical category. Thus, a comprehensive phenomenological ethics has, among others, the task of elucidating the

experience of the contingency of our “contact” with ethical difference, the transcendental structures that make possible our actual encounter of others as others, as well as the philosophical significance of testimonies. The relation among the different layers of the *ethos* cannot be thought of merely as a hierarchic relation among different strata of knowledge, but as the articulation among the many layers of a complex dynamic structure, whose investigation is still a major philosophical task.