

“Who is this person?”

Indelible migrant pasts and practical problems

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In this lecture I approach my subject on a practical level. In discussing “the person I see before me” and what is needed to understand that person and to do whatever has to be done as a consequence, I am not proposing a rush to practice to find answers. By “a rush to practice” I mean seeking all the answers in the realm of practical facts or experience, or “on the ground”, as if all the answers are to be found there, unmediated by abstraction and philosophical reflection upon it, from books or other media. But, in Kantian terms, I will discuss this subject in the realm of practical reason, that is, reason that can lead to practical action rather than to some universal or philosophical understanding of problems and solutions. I must make clear some reservations about my approach at the outset. In my opinion, universalising on the basis of such practical knowledge(s) is a much more important and demanding exercise than I am engaged in here but it requires different evidence and argumentation from those I use here. Moreover, I am not endorsing the arguments of conservative thinkers like Alain Finkielkraut, although they may appear very close to mine. We start from shared, unpalatable, practical realities because often, conservative and even reactionary statements about the terrain or the “facts” are more accurate than pious left-wing progressive wishful thinking. However, we draw opposite conclusions from the same statements of fact. It is the reflection upon such material that is most important - the views of the commentator - in reaching “solutions”. So, I pin my colours to the mast: I am a “pious left wing progressive”. And, like all conclusions, mine are open to lengthy discussion. I hope we will have a chance to start that discussion.

So. Imagine yourselves facing a “dysfunctional” individual from the group you work with. You may be a social worker, a police officer, a teacher or a government employment agent. We can discuss later whether who you are makes a difference to what follows. For now, I limit what I say to the fact that you have to do something about a problem of perceived “dysfunctionality” for or with that person whom you see before you.

The immediate issue for you is a problem that requires a solution, a problem of this human being “whom you see before you”. The problem is, in that sense, bounded by your shared space or environment. Say, you are faced with a delinquent act at school or on public transport. Once upon a time, you could have assumed that the person before you was much the same as you, that you shared a social space; that therefore, you spoke a common language and could somehow communicate clearly or without too much misunderstanding. So, taking our hypothetical delinquent student, as a teacher you might explain the rules; how they had been broken by the student, what solutions or sanctions might be proposed or negotiated, and so on. Of course, the message would only ever have been semi-clear, since society is riven by cleavages of class, gender, education and so on. In Alexander Herzen’s celebrated image of the muzhik before the tsarist court (Herzen, 1963: 182-3) we are reminded that the former found the latter’s rules frightening and incomprehensible. But at least the muzhik was somehow part of that shared unequal world, in which there were people like him and the terrible lords of state, seeing the world from different perspectives.

I suggest that today, matters have changed qualitatively; that the important point is that you will not share much at all with the person before you; that this immediately raises the question of what to do about that as a practical matter. Today, as you all know, the person whom you

see before you is frequently even physically or visually different, wearing tell-tale signs of belonging to a different group from your own – a turban, a sari, a kippa, a cross. And, when they speak, even if they are not ethnically different, and even if they speak your language as “native” speakers, their references take them outside your shared space. You have no shared language of communication for that.

As you will often not speak the same language even in its most basic sense, being smugly multi-cultural (as we all are today, no?) you will seek to find a way to communicate through smiles, sign language, pictures - even an interpreter - to establish how that person understands the issues and what sense he or she makes of them. Your object, I emphasise, is to understand what his or her or their value or belief systems are, without which you can do little. Even when having crossed that bridge *grosso modo*, and having established to your basic satisfaction the nature of their difference, you will still, I suggest, have great difficulty in communicating adequately if the immediate lived shared space is as far as you can go.

Today, the teacher, social worker, or whoever it is, who is coping with a problem, trying to help, and coming up with a variety of solutions, will have been taught to look “behind” the person before them; to their history, to their pasts, to their experiences before they came into the shared space in which they are apparently “dysfunctional”. No longer, as was the case in the integrative or assimilative eras of immigration, is it assumed good enough to regard and treat that person as if she were born on the day she appeared before you as a “case”, born like Lao-tse at the age of 80. Today we are expected to know something about their pasts. By this, I do not mean simply that we seek to explain a “dysfunction” by their individual histories, say, as victims of torture in their pre-immigrant life. This, of course, remains an essential preliminary step in seeking to understand how they perceive the world. Without such knowledge we cannot begin to understand their beliefs or value systems, how they view other human beings or humanity. Should we try to go back beyond the real shared world, into the past of their pasts, into finding out where they are coming from? And how do we do that?

To begin an answer to the first question “should we...?” I go back to Finkielkraut’s valuable discussion of such an approach. In his *Sagesse de l’amour* (1984: 87-101) he describes the “trial” of Germana Stefanini in 1983. She was a prison guard kidnapped by the Red Brigades and accused by them of having acted repressively “sur la peau des prisonniers communistes”. After a short trial they convicted and executed her. Her attempt to tell her personal story, that she was an old, sick woman who merely delivered packages to prisoners was dismissed as “wailing”. The fact that her “judges” were unmoved by her personal story is explained by Finkielkraut in the following way. They thought they knew better than she who she was, because they defined her real being by her place in the social field and they made sense of what she did by that general social background as part of the larger social world. In this scenario, instead of being seen as a victim, she becomes a murderer because the system she expresses is murderous. “How could they in good faith reverse the obvious that cried out?” (i.e., that she was simply a poor sick old woman). According to Finkielkraut, they did so by pushing to a paroxysm a process of reductive interpretation [of who she was] in which each individual is absorbed into the function they fulfil as if no more than their class. All the individual human beings (faces) disappear into the principles they incarnate....”[so] what attaches the despicable brigatisti to the grand revolutionary tradition is the fact that they reduce individual beings to their social identity...When Germana expresses herself, it is the bourgeoisie that speaks thru her...They establish a confrontation (*face à face*) that they simultaneously empty of all reality.”

Roughly what Finkelkraut would have us do is look at the naked human face before us and not decipher the culturally hegemonised being behind it.

A man you say? What man?...where does he live? When did he live? .There is no man unless he is situated and no words that do not indicate. We can call totalitarian that way of thinking...that behind each face, in a word, [we] see the true face - ethnic or historic - and make the first, in its singularity, in its ungraspable mobility, both mask and betrayal...The wisdom of love; is meeting with the face; totalitarian stupidity is unmasking the true face [behind it].

In sum, Finkelkraut warns us against looking beyond the face before us and deciphering its actions by reference to the class of beings to which it belongs. For example, it is wrong to see the person before us not simply as a young man but as obliterated by his belonging to the class of Muslims. Finkelkraut repeated this criticism with convincing force in his critique of von Trotta's film about Hannah Arendt and her thesis of the "banality of evil" that was Nazism's Final Solution. You will recall that Arendt explained Adolf Eichmann's role as that of a cog in a systemic wheel of extermination in which other cogs were the Jewish Councils themselves. Finkelkraut stated that it was an excessively clever intellectual reduction of a much more common sense reality: that the individuals involved were simply bad individuals responsible for their actions. His argument, in the tradition of Emmanuel Levinas, has great force and we should bear it in mind in what follows, a sort of *garde fou*, but only up to the point that I will discuss later. I note that where the Red Brigades told their victim: "We know who you really are", shutting Germana up, in the case of Eichmann, he (the victim) stated who he was really, nothing but a cog. For Finkelkraut, we never should forget that it is a human being, the individual, before us. Their views may appear monstrous but they are not one and the same with the individual.

Against Finkelkraut's view, I am arguing for a deciphering of the "Other" that we see before us carried out by placing that person not only in the context of their individual *cursus* before arriving in a "host" community but also in the context of what it means to be black, white, red or brindle, in the context of what it means to be a Christian, a Jew, and Muslim, in the context of a comparative knowledge of different histories and cultures ,or "social fields". In doing so, I merely reiterate Montesquieu's "Copernican revolution" that all modern factual knowledge only obtains meaning in comparative context. As Montesquieu pointed out when he founded modern social science, on the basis of which we still usually work, with caveats I make below, when a young Chinese daughter-in-law performs her filial duties every morning for her mother in law, her apparently meaningless and abject acts (for a Westerner), are both meaningful and rational once placed in context. They are a completely rational manifestation of a system of inculcated familial authority, without which the whole Confucian social structure of the celestial kingdom would collapse. Social order, which most of us want, requires obedience to such rules .More significantly still, as embedded in affective social relations, even when abhorrent to others of different cultures, her comportment should not be lightly dismissed. It is not simply a surface matter to be got past in order to arrive at the substance of her oppression, since it is part of her self-identity and sense of self. It is not good sense to assume that such cultural manifestations can be easily pierced or swept away because "we are all the same under the skin". They are no absurdity to be disregarded as trivial or eliminated as irrational (Montesquieu [1748] 1964: 645). Individuals live according to such rules in order to survive, to remain human. On reflection , we are ill-advised in accepting any skin/body metaphor for a human being. It is heavily loaded and contradicts Montesquieu's

wisdom. With Gramsci, we do well to remember that a human being (or any other object) cannot be reduced to a “skeleton” if we wish to understand what drives or motivates it.

I feel sure that today few are not taught to avoid such errors as those that Finkelkraut identifies in the Red Brigade. Rather, conscious of difference, we do not tell the person before us who he or she is. We let them tell us, as we tip toe around their sensibilities and begin to learn what weight they attribute to their strange customs and views. This approach is encouraged even more when we wish to persuade the person that their actions in a new context are harmful to themselves and to others. We listen for a long time rather than preach and then we try to convert by example, a sort of victory in peaceful competition. This is what the first missionaries left us as their acquired wisdom in facing others whom they could not understand and whose actions they oftentimes abhorred. Starting with Bishop Las Casas, two centuries before Montesquieu and three before Bishop Salvado, it was made quite clear that, faced with radical difference and no means of communication (no shared languages), the best practical policy is not to preach but to listen, and to show sensitively and practically that the Western way is better.

Both of these bishops learned that lesson about listening to the meanings given by the persons before them “on the ground”. Because they did so, we do not need to. So, returning to our hypothetical teacher facing the student delinquent, we do well to listen to what the latter says. But then, more problems may emerge when we simply let the person in front of us explain – be the only one to make sense of - the meaning of her actions. Let me give an illustration from the Charlie Hebdo events. The Kouachi brothers and Amedy Coulibaly were “typical” dysfunctional individuals whose ethnic and religious difference was written on them. They had been many years in social care and/or in prison. Having been killed, they could not be asked directly about the whys and wherefores, although they left sufficient information behind about their experiences in life and how they became jihadis. Instead, some journalists questioned their peers. Young beurs, when asked to explain the motives of young Western jihadis, claimed that in the disaffected youth of the gangs and quartiers chauds it had become trendy to become a jihadi and to leave to fight in the Middle East. It makes you a star. Then, more than one interviewee said that it was not much different from the earlier trendy fads like wearing “baskets” or certain brands of sneakers. The implication was that jihadism in the West was just a fad of modern youth and that it will pass. Faced with such a generalisation, what is the practical attitude to adopt? If we subscribe to the thesis that we are all the same “under the skin” then such actions are epiphenomenal and really, those who commit such deeds are no more than interchangeable with other modern youth - in the United States going to prison has long been a rite of passage among many young blacks.

But that answer will lead us nowhere practically. What matters about Coulibaly and others like him, is their choice of “jihadism”. It is that particular choice that made them “dysfunctional”. For them, it had great affective meaning, though for me it would have none.

So, having the person before us explain, and listening, is subject to the caveat that the understanding that process does not mean simply listening to another rationalisation by “peers” or fellow ethnics within the shared space. In the above case, the young people interviewed about Coulibaly spoke about a life in a certain France for people who had origins elsewhere. It was not about their difference but about their similarity. We have to make sense of all the stories we hear while we try to put ourselves in the context of the other, to see things from their point of view.

Statistics show that individuals from minorities are greatly over-represented in prisons, reform schools and other centres for social reintegration. They will be a significant source of people needing human assistance into the long-term future. To this fact we can add that in theory, we should start by studying the different histories, cultures and belief systems of the myriad beings whose kaleidoscopic variety we have to cope with, but not uncritically, or by obliterating ourselves. Only knowledge of those matters will allow us to understand why we do not easily understand each others' rules and why certain acts are crimes in one place and not in another. Misunderstanding context leads to misunderstanding personal histories. Moreover, we have to understand the latter not so much as commitment to the values of the former but as a deeply inculcated and perhaps indelible culture that gives each individual a sense of belonging.

However, that brings us to our first major problem. These suggestions are all very well. It may be common sense that we should read widely and try to grasp something of the cultures of the persons before us. But this is a near impossibility because in conditions of global migration today there are just too many different others in most of our states, sometimes nearly 150 ethnicities, without counting other variations. People coping with them know it is impossible to learn even the basic languages, the royal way into a culture. Imagine even having time to learn a smattering of Mandarin, Hindi, Arabic and Russian. And, as practitioners (e.g. as teachers), we know that it is myth that English is already a global language shared by sufficient numbers to allow communication via a lingua franca. Today, huge numbers of migrants remain monolingual or only locally plurilingual. We should not confuse middle-class migrants with the poor and desperate majority.

So are we condemned to a dialogue des sourds? There are solutions being tried and sometimes found. It is useful to enumerate some. In our multi-ethnic and multicultural societies there are many completely bi-lingual and bi-cultural individuals who can act as interpreters. Many end up working in positions that require mediation, as official interpreters. Undeniably, there are among us Salvadoreans, Guatemalans and, closer to the West, people from the Balkans, who understand even torture and its short and long-term effects. They are a great help when working in the rehabilitation centres, but they are few. Where idiotic neo-liberal policies of cutting back on such positions have not been implemented, the availability of this pool of interpreters is a marked advance on the situation of sixty years ago when monolingual battered mothers had to bring their children to explain their situation, say in a hospital, as the young ones knew the host language while their mothers did not. Lest you think that Herzen's muzhik is a thing of the past, I remind you that in Australia, a pioneer of multicultural policies, in the law courts, interpreters were still not provided as a right just a generation ago. Today, states usually have teams of "experts" on the culture of origins of immigrants to whom they can turn to decide if, for example, a claim to refuge status has merit. The limits to using such "interpreters" to overcome our personal lack of knowledge of another value system are at least twofold. The first is the sad reality that often such experts are mere lackeys whose views are designed to legitimate the existing state ideology about rights. Often, they are ignorant of the realities in countries of origin. Outcomes are the same as they were before their introduction. When I studied law 40 years ago, we were taught about individuals who had pleaded not to be sent back to their places of origin because they would be tortured or killed on arrival but who, because officials thought that such fears were unjustified, were sent back to their deaths. This was because of ignorance. Today, the official expertise borders on bad faith. Much more recently (1997), a Chinese woman in late pregnancy was returned despite her plea that she would be compulsorily aborted. This was scoffed at because of

“expertise” to the contrary. She was arrested as soon as she landed and a forced abortion was performed (<http://www.abc.net.au/7.30/stories/s24134.htm>).

But, the unreliability of officials of state and their so-called experts has become common sense for decent individuals who have to deal with the faces before them. More complicated for the latter is the problem of malinchismo. La Malinche was Hernan Cortes’ indigenous mistress and his interpreter when he and his Spanish invaders of Mexico had to communicate with the locals there. Malinchismo in Mexican slang has come to mean false or double speak because after the experience of Spanish genocide that followed Cortes’ conquest of the Aztecs, it is believed that no-one can speak for two different others without betraying one of both, either wittingly or unwittingly. In Japan, for example, very recently, anyone who was not a native but who spoke Japanese perfectly, was automatically regarded as suspicious because only the devil or his servants could ever be capable of that. In sum, even in a system of reliable interpreters, if malinchismo has a basis, then our teacher would have to be on the qui vive, always a little mistrustful of the interpretation.

But suppose you have your Hmong or Azari interpreter next to you and that person is sophisticated enough to know how culturally laden references are and what historical contexts are presumed (i.e. that Pathan/Azari relations are conditioned by British imperial meddling in regional politics 150 years ago, and that for one or the other, any Brit is on the side of the people who have always massacred his people); they can correct or really translate, so that you see the person before you in a historical perspective, still through the glass darkly but the broad brush strokes clear, then is not the problem of communication solved sufficiently? After all, if a person has difficulty really knowing the person whom they married twenty years before and is the mother or father of their children, can we hope ever to understand more than the broad brush strokes? I do not want to get into deep existential problems here – as Sartre intimated, no one can die my death and we are all alone. Let's stick to the practical. I suggest that at this point we are only at the beginning of a much more insoluble problem as we approach much darker matters.

This assertion arises from the conclusions to my research for a forthcoming book. When the person before us communicates about his or her past, it will be increasingly about events, lives, humanities that few of us have ever experienced. Those events, even when recounted and situated, will have no affective meaning for us; nor will the attitudes and actions that arise from them. In this sense, they will remain incomprehensible because the understanding we seek is not simply cerebral but is also an emotional, felt, sympathetic, shared understanding. If there is one essay of Antonio Gramsci I would urge you to read before you start building any counter-hegemony, it is “Uomini di carne ed ossa”, which explains how joint action for change rests on sympathy.

We come, despite these aids to communication, to an apparent impasse not only because of the vast movements of refugees, thanks not only to globalisation, but also from war zones, fleeing war crimes and genocide. Nowadays, massive genocides occur about every ten years. To take the Australian case as an illustration, refugees from war and genocide arrived from Europe (1947-65); from the Middle East, mainly Egypt and the Lebanon (1956-1980); from Vietnam (1975-85), from Afghanistan and the Middle East (1990-2010), not to mention Latin Americans from Chile, Salvador, Guatemala and later, Sudanese and Somalis. The pattern has been similar world-wide. Today the main source of such refugees is Syria, though more refugees flee in Africa from one country to another on that continent. From Syria, the refugee

numbers are currently (2015) 4 million, and 500,000 mainly Syrians and black Africans mass on the Libyan coasts alone, ready to risk their lives to get to Italy on unseaworthy boats.

They have lived through what survivors of genocides describe as “indicable” horrors that only they can grasp and their view of humanity is consequently quite different from that of rich, peaceful Westerners. Moreover, as the reference to British meddling above intimates, we may be - as they sometimes think - interlocutors who are not “innocent”, and cannot be. Like the Spaniards, we can only speak with forked tongues. Westerners usually fomented the wars that caused the horrors they now flee (see e.g. Tariq Ali's essay on “the new global disorder” in the London Review of Books, 9/4/2015). We provided the torturers or their methods from whom so many now flee. And then Westerners, dishonestly, using experts, tried for a generation to separate “true” refugees (those fleeing persecution by a state) from “economic” migrants (those merely seeking a better life). If, today, that distinction is less effective and it has been conceded that individuals seek refuge from the consequences of war and from other co-nationals or citizens as much as from states, then that has come from listening to the victims. In Canada, in 1993, for the first time, an asylum seeker (a Saudi woman) was granted refugee (humanitarian) status because of mistreatment by her own people, but only after a long battle and ministerial intervention (Audrey Macklin, 1995, *Refugee Women and the Imperative of Categories*, *Human Rights Quarterly* 17(2): 213-277 Available at: <http://www.law.utoronto.ca/documents/Macklin/ImperativeofCategories-HRQ.htm>). In sum, we are likely to understand war crimes and genocide as “perpetrators”, not “victims”. This explains why there are great silences and repressed memories within our societies about our own dark histories and a desperate claim that only other peoples commit genocide.

In my book I show how in genocides only victims know who is guilty and who should be sanctioned and how far. All our Western values and nostrums about such guilt lost their force for huge numbers of victims in the Holocaust. They, particularly those who become “dysfunctional”, demand justice even if it is “wild”, rather than forgiveness or transitional justice, which, after all, is what professional adjusters are really engaged in with their cases.

Such intensely emotionally damaged people bring with them into the host countries values that born in their struggle to survive. Not for them any automatic respect for law and order imposed by a state or tyrannical majority. By carrying on the practices of self-reliance and making their own justice learned in conditions of war, and inculcating them as virtues into their children, today many are deemed “dysfunctional” and they make up a disproportionate number of inmates of asylums, reform centres and prisons.

The real wisdom about that past (which is in fact on-going and all around us, and is only a “past” in a limited sense) is theirs. Indeed, the effects of such trauma last into the third and later generations because of the structural damage caused. The claim that history begins after Auschwitz has a meaning for its victims and later generations that we struggle to understand. My parents’ generation from the West knew that world. Genocide was real for them and their experience of what humanity is changed in their mental universe. My generation and - more so - yours, have not lived through it, and we do not experience it in our daily lives - which is why those millions seek refuge among us.

Their Calvary does not end if they make it onto our soil. Many end up in camps behind barbed and electrified wire, with brutal guards who can and do get away with murder. Recent documentaries about such events in Switzerland are known to you but they can be paralleled everywhere. Not surprisingly the victim refugees do not - through kind treatment - quickly

believe that the horrible worlds they have left do not exist here. They do not exist for old national citizens but they continue for the masses huddled at Calais, or in the Romany camps throughout Western Europe. Evidence that in the huge camps in central Africa and Darfur, the genocidaires and their victims, often interchangeable after a generation of mutual slaughter, continue the real rule of violence and terror that existed before they fled, cannot be ignored in facing the person before you. And in Sicily, those who make it that far end up in camps controlled by the mafia, whose allies drown others before they can reach Lampedusa.

Why should they believe that the rules they learnt in war conditions are not better than the regulations and laws that we argue are better. The “dysfunctional” see that as hypocrisy. We reach extremes when we consider why they continue to commit “terrorist” acts. In Israel, every suicide bomber is a terrorist. But in the Second World War, that is exactly what Jewish partisans resorted to because of the inequalities of power with the Nazis. They strapped bombs to themselves and blew themselves and their oppressors up in acts of “self sacrifice”. Such partisans were decorated and made heroes in both Israel and the Soviet Union after the war. One person’s “terrorist” is another person’s “hero”.

This brings me to the nub of all this. All along, as is in practice the case, I have been speaking as if we are the “subjects” and the “persons we face” the objects of our activities to make them functional in our society. But let us reverse it and try to see it more from their subject position and what that means practically, given that we cannot sympathise because we have no shared experience of genocide or of the Hobbesian world that is their truth. Exploring that past for meaning is only to take us into un-meaning. It cannot be rationalised away because it exists for at least half the world’s population and often they know that it is a world created by Western powers. What we can do is subject our own self-evident beliefs to criticism by wondering about the validity of their criticisms of those values.

In a hypothetical case of an apparent “thug” who seems unappreciative of all the care and money spent on him or her to integrate them (as was argued in many articles about Coulibaly), who refuses to see that choosing “jihad” is not a solution for him, a generation or two removed from direct victimhood, we throw up our hands. How can this person be so unreasonable, even so lacking in self-interest? But imagine how his actions, typified in our discourse as “terrorist Islamic extremism”, might seem to him. He bristles at the values borne by those words, perhaps recalling the drones who killed his entire grand-parental family. Does he not see revenge on the perpetrators by the victims or their proxies as a moral and ethical duty, as it was for Soghomon Tehlirian and Herschel Grynszpan? Can he avoid seeing us “perpetrators” as hypocrites when we spout our values about democracy, human rights and the rule of law? The horrible beheadings of ISIS that cause revulsion here are replaced in his or her mental universe by the reports of what we call “collateral damage”, thousands of innocents, women, children, old men, killed in Western air strikes. These offenders know that torture was and is part of our rule of law, not merely illegally practised. They know that recent US figures show that 80 per cent of Americans approve of such “tough measures”. In France, a law similar to the Patriot Act of the USA (under various names) is being introduced without mass opposition. How far will that go? Let me just remind you that the equivalent Australian act provides for a life sentence in prison for anyone helping an illegal immigrant. As always, proponents say that those provisions would almost never be used. Working in this area, I would say that it is stupid in the extreme to agree to such provisions: they will provide guidelines like those that eventually allowed mass murder in Nazism concentration camps and the perpetrators to escape punishment after the war.

You are not easily going to understand a follower of al Qaeda as a moral being if you do not read al Zawahari's story, and written from his side, not by a comfortably complacent Western expert. If that follower read about al Zawahari's torture (with US backing) which turned him from a pious, rather mild, young man into a radical jihadi, why should he not think that the Egyptian is the moral being and Obama, who protects and sanctions torturers, or the French Socialists who preach a solution of war from the sky (more drones) against the commanditaires, all of whom are in Middle Eastern countries, satanic? We know that the self-evidential benefits of democracy and the rule of law in the peaceful West is challenged by a world where the notion of "goodies" (us) versus "baddies" (them) can no longer be believed. We know that it is not only totalitarian regimes that commit war crimes and genocides, but also democracies under a rule of law. Jihadis know this too. So Coulibaly and the Kouachis were not "raving" about the terrible things they thought they were avenging. They were "justice makers" even if we cannot understand why they went so far because in Western legal traditions only direct victims have the right to retaliate. That is not the case in other traditions of law, including various sharia' law systems. The Kouachis were acting in that tradition. To them, Lyotard's thesis of the *différend* definitely should be applied. Our laws and institutions then emerge as double standards, not merely incomprehensible but also harmful for the attainment of justice and the good.

In sum, when the "person before us" refuses to "see reason" and is intractable, it is not a form of madness needing psychological treatment (as often is assumed) but a rival form of reason which we, unfortunately, cannot understand at a deep level. The experience of war, war crimes, genocide, have inscribed deeply in their beings views, attitudes and values about humanity that we cannot and will never understand. They still try to come to European societies because many do make it and become integrated; because of false reports back home that matters are better than those in which they lived; because, as a Syrian ready to risk all for his family to escape the Lebanese camps stated on television recently, matters are still worse there than here. But, today I talk not of the successes but of the "dysfunctional", whose views we cannot understand. We have already made the point in various places that they want those benefits in their idealised form but that their experience of the reality quickly disabuses them. They frequently experience the rule of law as gunboats protecting those benefits for us, drowning them, and that host communities are really rather nasty and selfish in their nationalism.

But look at these issues from what is possible for our side given the opaqueness in our understanding. If we cannot understand their experience or values where can we find any common ground? I suggest that the answer is surprisingly simple, yet it is difficult for us, and much less our culture generally, to accept. We find our common ground with the "person before us" in their experience of our world and its values. These overlap with ours where their world is a horrifying chaos for us and there is seldom an overlap. They have come to live with us; it is there that we share a space. And, they know our values both as professions and realities. If they find our adherence to them as incomprehensible as we find their adherence to their values, then at least they have some basis in experience of us for their views, which is not the case vice versa. This does not amount to their having the right to lay down the law to us, although our states are terrified of that, dubbing all criticism madness. What we can say – maybe it is true for them as well - when they criticise our shibboleths, say democracy and human rights, is that we can seek to review our long-held beliefs. We then find many critics from within our tradition who endorse similar views to those of the "dysfunctional". An exchange could begin on that basis. In sum, what we can correct or rectify or question are some of our own taken for granted and heart-felt beliefs. We could well learn more for and

about solutions “in the middle” from debate with “the other” about matters in our mutual world rather than in theirs, which we can only decipher to the limited extent that I have discussed.

Let us start with what are to us the self-evident benefits of democracy, human rights and the rule of law: that they bring peace and predictability is given in our experience or in what the French call our *vecu*. For most of us, the state protects; police are nice people who help old ladies across the street and ensure law and order, and other human beings are amiable and good-mannered on the whole. But, considering that real democracy, human rights and law only approach a little their ideal notion even in our worlds, and that we are a very small minority of the world population - maybe one fifth, what does the rest think about them as reality? For many, despite the almost 100 per cent professions of commitment to those principles in their states of origin, democracy only exists there as a farce and human rights are ignored in reality. The USA, as the expression, with France, of a sort of Rousseauian democracy, has made the promotion of such values a crusade. To impose those views, the USA and its allies have conducted incessant wars and killed millions, particularly since the first Gulf War. It has backed so-called democratic revolutions – the various “springs” in Eastern Europe, North Africa and elsewhere - to block demonised forces of otherness. Both policies made matters worse for great numbers of people. Of course, the latter see no peaceful benefits arising for them. When a “dysfunctional” person makes those points, saying that they continue in our states and not just “back there”, instead of treating that criticism as ridiculous, or non-negotiable, we could look at our own critical literature on such matters. In particular, we should look at what it says about such matters in our societies - as the reality experienced by immigrants.

In theoretical work, as the guarantee of universal benefits, democracy, human rights and the rule of law as they really exist are heavily under siege. They are not self-evident truths. “Post democracy”, as it is known in the theoretical literature, is heavily criticised (in the Poulantzas/Laclau and Mouffe-inspired theory of Syriza and Podemos) but also much more widely (see Davidson, 2012, Intro). Human rights in their restricted nationalist form (that is, where you get them after you get national citizenship rather than as universal rights expressed in the UNCHR of 1948) are also discredited (ibid, passim). The very rule of law, assumed to be a self-evident boon, has been revealed more and more to be simply a crude arm of capitalist state power, itself doubly powerful because of popular support based on fears of phantom menace from the other. In a genocidal age, in the place of justice for victims we have compulsory forgiveness for mass murderers, going under the name of transitional justice, the almost obligatory policy after a popular mass revolutionary overthrow of any murderous tyranny.

Once we digest this state of the art literature, which is very large today, we are obliged to give up the idea that the merits of democracy, human rights and the rule of law are self-evident, and subject all three to revision and scrutiny. Maybe it is not the person before us who is “dysfunctional” but the system? And if that person takes power away from the state by his or her actions, may that lead not to oppression but to liberty and well-being, once the individual act becomes a mass phenomenon? State power, ideological and hegemonic, is directed to suppressing and denigrating such suggestions and you will pay if you start asking such honest questions of yourself and the values of your society. Once individuals begin to threaten those values, as by definition “dysfunctional” (non-hegemonised) people do, their views must be relegated by power holders to the realm of un-reason or madness. But, and here I come to one of the conclusions of my forthcoming book, in the age of genocide (that world which affects

more than half the globe and most of our migrants directly unto the third generation), there is arguably more reason and virtue in taking the law into your own hands than in submitting to it. This applies “here” as well as “there”. All the efforts of our societies to keep the contagion out by frontier controls and the hunt for the internal enemy cannot contain these emerging values among us, as the increase in “terrorist” attacks show. We should consider whether that is because “there” is increasingly “here” - not only because we allow the victims of our own misdeeds into our worlds, but also because the very notions on which our worlds are built were exclusionary myths from the start, resting on the falsehoods of commonalty, community, unity and similitude, and above all to state norms encapsulated socio/politically in projects of democratic nationalism. Global migration ends such myths. Otherness is here in the form of the “person that we see before us”. Forged national hegemonies, even republican, in fact rest on the suppression and expulsion of otherness, leading inexorably to genocide in the name of higher values.

Our states train obedient, not quite but almost passive, citizens who obey the laws of his and, nowadays, her making. There are vast and complicated dimensions to this work of hegemony. In the nineteenth century, we thought that any valid criticism or counter-hegemony would come from contradiction within, for example, from an oppressed working class whose violent and illegal actions won us most of our social democratic rights (and many human rights). For over a century, our thinkers have suggested that in fact it was from “outside”, through the contradictions of imperialism, that opposition and the struggle to win decent lives would come. Today, imperialism gains strength in soft-power ways but more often through wars and denial of rights throughout the world. Today, the “outside” is “inside” through mass migration both of the labour force capitalism needs and through the millions it would prefer to keep as a reserve army of unemployed. Hegemony of state still seeks to keep their solutions at bay by relegating their values to mad dreams or unrealistic utopia. In place of Kant’s obedient submissive citizen (Kant did not get it all right despite the beginning of this talk!) who underpins democracy, human rights and the rule of law, might we have more to learn about better values for mankind in an age of genocide that creeps ever closer into our heartlands, from the sort of human being who, like Antigone, disobeys the laws of the city; makes her own justice and is ready to die in making that justice?