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THE UNIVERSAL ACTS

Judith Butler and the biopolitics of immigration

Drawing on official acts of Western multicultural democracies – predominantly the UK Nationality, Immigration and Asylum Act (2002) and its accompanying documents and actions – this article investigates, via an engagement with Judith Butler, the constitution of ‘the biopolitics of immigration’. It also argues that the biopolitics of immigration both presupposes – in the form of an injunction – and produces a certain ethics: what the author calls, drawing on Butler’s work, ‘an ethics of bodies that matter’. This ‘ethics of bodies that matter’ will be seen as a source of political hope; it will guarantee the possibility of enacting differently the political acts that regulate the issues of asylum, immigration and nationality.

Keywords asylum; biopolitics; body; Butler; ethics; immigration

Introduction: *the people you never see*

In one of the final scenes of Stephen Frears’ film, *Dirty Pretty Things* (2002), ‘legitimate’ London meets its ‘constitutive outside’: an illegal immigrant from Nigeria, a Turkish asylum seeker and a black prostitute. ‘How come I’ve never seen you before?’, asks a ‘native’ Briton when facing this alien crowd that has gathered to meet him at an underground hotel car park. ‘We are the people you never see. We’re the ones who drive your cabs, clean your rooms and suck your cocks’, replies the Nigerian immigrant.

What exposes this network of interdependency is a thwarted business transaction, in which Señor Juan, a head porter and a trade *courier* between the two worlds, becomes himself the *object* of a business exchange. The goods in question are human kidneys, which are surgically removed from the bodies of illegal immigrants and asylum seekers for the price of a forged Western passport and then smuggled to ‘the other side’. Señor Juan’s ‘health network’ falters when Okwe, a Nigerian doctor turned hotel porter, manages to anaesthetize Juan and remove one of his own kidneys – thus saving Juan’s next imminent victim, a Turkish girl desperate to buy a EU passport and

move to New York, from unnecessary surgery. Accompanied by his 'assistants', Okwe quickly delivers the promised 'goods' to the client waiting in the hotel car park – and hence the client's surprise: 'How come I've never seen you before?'

Frears' film is interesting in its metaphorization of the issue of asylum seekers' bodies. Frequently represented as contaminating agents, always on the verge of penetrating the healthy body politic of the community or nation, the asylum seekers in *Dirty Pretty Things* are positioned as a secret source of life, which sustains and nourishes the body proper.¹ And it is the issue of asylum seekers' bodies, or even of asylum seekers *as bodies*, that will concern me in this article. Drawing on official acts of Western multicultural democracies – predominantly the UK Nationality, Immigration and Asylum Act (2002) and its accompanying documents and actions – I will investigate, via an engagement with Judith Butler, the constitution of what I will term the biopolitics of immigration. Butler's work on the performativity of cultural identities, including notions of gender, kinship and the body, has been extremely important for my thinking about immigration. But it is, in particular, her investigation of *which bodies come to matter* – addressed most explicitly in her 1993 book, *Bodies That Matter*, but also developed further in her later writings – that has inspired my analysis of the issues of asylum and immigration in the context of biopolitics.

The biopolitics of immigration

The notion of biopolitics comes from Michel Foucault, who in the final section of *The History of Sexuality* puts forward a claim that, in modernity, ancient sovereign power exerted over life and death has been replaced by bio-power: 'a power to *foster* life or *disallow* it to the point of death' (1984, p. 138). Biopolitics thus describes the processes through which Western democracies, with all their regulatory and corrective mechanisms, administer life by exercising power over the species body (1984, p. 139). What is now at issue, according to Foucault, is not so much 'bringing death into play in the field of sovereignty' as instantiating the idea and sense of the norm, which is supposed to regulate society and ensure the intactness of its sovereign authority. The biopolitics of immigration – one of the forms through which bio-power is enacted in Western democracies and through which life is 'managed' – thus contributes to the development of the idea of normative universality, against which particular acts of political (mis)practice can be judged.

And yet, as Judith Butler, Jacques Derrida and Ernesto Laclau have demonstrated in numerous works, the notion of universality proposed in official political discourses always entails (or is contaminated by, as Laclau has it) a certain particularity. Indeed, the universal juridico-political acts acquire

their 'universal' value only if they draw on the particularity of the official and non-official regulatory mechanisms that are supposed to exclude whatever may pose a threat to this idea of universality. This is to say, they rely on state legislation already in place, on the concept of citizenship embraced by the democratic community, but also on 'public opinion' that has to be taken into account and responded to.

Butler in particular has gone to great lengths to expose the productive ambiguity entailed in the notion of an act – an ambiguity that the title of my article is intended to convey.² The noun group 'the universal acts' (no matter whether we are speaking more generally about foundational acts of Western democracies, or, more specifically, about legal acts regulating issues of nationality and immigration) is also a clause, pointing to the transition process in which the timelessness of universality is put in question. If the universal *acts*, it is then taken out of the frozenness of an instant and undergoes a certain transformation, maybe even a deformation. The acting out of universality simultaneously establishes this very idea of universality through the sequence of acts, through their citation, or repetition. I thus want to argue here that the alleged universality of the acts and actions directed at, or involving, asylum seekers, is in fact only established through the working of the performative, i.e. through the reiterative performance of these acts. However, I will also claim that this biopolitics of immigration both *presupposes* – in the form of an injunction – and *produces* a certain ethics: what I will call, drawing on Butler's work, 'an ethics of bodies that matter'. It is precisely this *ethics of bodies that matter* that I will see as a source of political hope, as well as a guarantee of the possibility of *enacting differently* the political acts which regulate the issues of asylum, immigration and nationality.

The notion of ethics I will use will be based on the work of Emmanuel Levinas, for whom ethics is the 'first philosophy', situated 'even before ontology', and thus 'before politics' – not in the temporal sense, but rather in the form of an unconditional demand on the conditioned universe, with its particular places, customs and political acts. Levinasian ethics – defined as concern about the alterity of the other, but also as response and responsibility – is most pertinent for my investigation as it seems to tally with the multiculturalist position of 'respect for cultural difference' that might be easily, perhaps *too* easily, applied to 'the issue of asylum seekers'.³ But it is the rigour of Levinas's philosophy that allows me to question what is actually meant by this idea of 'respecting the other'. However, I would like to defer talking about ethics as response and responsibility and dwell for a little while on notions of *ethos* (understood as 'custom') and *ethnos* ('place') that underlie certain ethical conceptions but which also provide a bridge to the political. It is the customs, norms and regulations of the democratic public sphere that will be of particular interest to me.

Performativity of the public sphere

The 'issue' of asylum seekers lies at the very heart of the broader issue concerning the constitution of the public sphere. For Butler democratic participation in the public sphere is enabled by the preservation of its boundaries, and by the simultaneous establishment of its 'constitutive outside'. She argues that in contemporary Western democracies numerous singular lives are being barred from the life of the legitimate community, in which standards of recognition allow one access to the category of 'the human'. In order to develop a set of norms intended to regulate the state organism, biopolitics needs to establish a certain *exclusion* from these norms, to protect the constitution of the *polis* and distinguish it from what does not 'properly' belong to it. The biopolitics of immigration looks after the bodies of the host community and protects it against parasites that might want to invade it, but it needs to equip itself with tools that will allow it to trace, detect and eliminate these parasites. Technology is mobilized to probe and scan the bare life of those wanting to penetrate the healthy body politic: through the use of fingerprinting, iris recognition and scanners in lorries travelling, for example, across the English Channel, the presence and legitimacy of 'asylum seekers' can be determined and fixed.⁴ The bio-politics of immigration is thus performative in the sense of the term used by Butler; through the probing of human bodies, a boundary between legitimate and illegitimate members of the community is established. This process depends on a truth regime already in place, a regime that classifies some bodies as 'genuine' and others (be it emaciated bodies of refugees squashed in lorries in which they have been smuggled to the 'West', or confined to the leaky *Tampa* ship hopelessly hovering off the shores of Australia) as 'bogus'. The bare life of the host community thus needs to be properly managed and regulated, with its unmanageable aspects placed in what Agamben (1998) calls a relation of exception. But the question that remains occluded in these processes of 'life management' is '[w]hich bodies come to matter – and why?' (Butler 1993, p. xii).

Butler demonstrates the regulatory mechanisms involved in the production and simultaneous exclusion of 'bare life' in a number of her works, referring to such excluded groups as transsexuals and transgender people (1990, 1993), non-traditional family units (1990, 1993), racial minorities (1997) or even cyborgs (1993). But it is the literary heroine Antigone, analysed in *Antigone's Claim: Kinship Between Life and Death*, that I want to turn to for my discussion of the issue of asylum seekers in Western democracies. Butler's reading of Antigone, who, '[p]rohibited from action, ... nevertheless acts', and whose 'act is hardly a simple assimilation to an existing norm' (2002, p. 82), will allow me to think about the working of the performative in different political discourses, and about the possibility of their resignification.

For Butler, Antigone 'is not of the human but speaks in its language', thus upsetting 'the vocabulary of kinship that is the precondition of the human' but also enacting a possibility 'for a new field of the human, . . . the one that happens when the less than human speaks as human, when gender is displaced, and kinship founders on its own founding laws' (2002, p. 82). Antigone indicates the political possibility 'that emerges when the limits to representation and representability are exposed' (2002, p. 2). Butler thus takes issue with Hegel's perception of Antigone, whom he does not see as a political figure but rather as 'one who articulates a prepolitical opposition to politics' (2002, p. 2). Hegel introduces a strict caesura between the law of the household gods, which Antigone both represents and dissolves, and the emergent ethical order and state authority based on principles of universality. The ethical as the realm of articulated norms, habits and customs (i.e. *ethos*), and the political as the realm of participation, together constitute the public sphere, which is opposed in Hegel to the sphere of kinship. Yet Butler points out that this idealized separation does not in fact work, as even though she is situated outside the terms of the *polis*, Antigone enables its very functioning by being its 'constitutive outside', i.e. she confirms and actively contributes to its constitutive exclusions. Instead of accepting Hegel's reading of Antigone as the story of the superseding of the order of kinship with the ethical order belonging to the state, Butler looks at the process of disruption that kinship (understood broadly as 'family' but not in any normative sense) poses to the idea of the state as we know it. Her Antigone is not confined to the order of the pre-political but rather incarnates 'a politics . . . of the scandalously impure' (2002, p. 5).

The politics of blindness

In his own reading of Antigone in the context of hospitality towards the alien and the foreign, Jacques Derrida justifies referring to classical figures in the context of contemporary political matters by arguing that these 'urgent contemporary matters' 'do not only bring the classical structures into the present. They interest us and we take a look at them at the points where they seem, as though of themselves, to deconstruct these inheritances or the prevailing interpretations of these inheritances' (2000, p. 139). Derrida does not of course suggest abandoning these classical structures altogether once they have been placed 'in deconstruction', but rather thinking them differently, or allowing them to reveal, 'as though of themselves', certain ambiguities inherent in them, ambiguities that will in turn allow us to interpret and enact our current democratic laws in a new way. To give an example of such an enactment of the Greek democratic tradition in our twenty-first century *polis*,

I want to look at another borderline character in Sophocles's *Antigone* (2000): the figure of Tiresias.

The blind prophet Tiresias seems to have returned to the British state in the figure of UK Home Secretary, David Blunkett, proponent of the new immigration regime and author of the White Paper, 'Secure Borders, Safe Haven: Integration with Diversity in Modern Britain' (February 2002), a document that paved the way for the subsequent Nationality, Immigration and Asylum Act. What is it that links Tiresias with Blunkett, apart from their physical blindness? In Sophocles' play, Tiresias appears before Creon to warn him that Thebes is on the 'edge of peril' and that Creon should 'listen to the voice of reason' and withdraw his prohibition against the burial of Antigone's brother, Polynices. On hearing Creon's refusal to open the city gates, Tiresias accuses Creon of suffering from 'the disease of wealth' and predicts the impending wrath of gods that will descend upon Creon and his family. The figure of Tiresias as a blind seer on the border of the *polis* is particularly relevant for me in the context of current legislation regarding asylum and immigration in Western democracies. However, one might perhaps say that it is too facile a gesture to 'equate' a modern Western politician with an ancient prophet of doom and gloom on the basis of their shared 'disability', or even that it is inappropriate to draw attention to Blunkett's actual blindness. Aware of such possible reservations, I am nevertheless prepared to risk accusations of impropriety and pursue the Tiresian (dis)inheritance, and its accompanying blind spots, in the discourse on immigration and asylum as developed in the UK government's White Paper, 'Secure Borders, Safe Haven'.⁵

'Secure Borders, Safe Haven' opens with a foreword, which has been authored and signed by the Home Secretary himself. Blunkett adopts here a somewhat paternalistic, sermon-like tone to explain to the British public that 'There is nothing more controversial, and yet more natural, than men and women from across the world seeking a better life for themselves and their families'.⁶ In his apparent attempt to win over 'the British public', he establishes a sequence of (il)logical equivalences (e.g. between a 'natural' desire for migration and a 'natural' feeling of apprehension felt by those whose territory the migrants enter) that are supposed to embrace and convey how 'the nation' feels about the issue of immigration. In a tone reminiscent of the Greek prophet, Blunkett speaks about the need to offer 'a safe haven' to 'those arriving on our often wet and windy shores'. Just as Tiresias takes it upon himself to point out that Creon speaks unwisely, the Home Secretary addresses and unravels the anxieties of all those self-appointed guardians of the national shores (from editors of tabloid newspapers to 'my home is my castle' John Bulls) who want to turn Britain into a fortress. Blunkett's discussion of the problems connected with migration and asylum is supposed to rebuke accusations that Britain is out of line with other European nations in the way in which it deals with illegal immigration and asylum seekers, and that

‘people coming through the Channel Tunnel, or crossing in container lorries, constitutes an invasion’. Blunkett’s Foreword is thus aimed ‘against false perception’, which he attempts to overcome with ‘clarity’ and reason. Blunkett lays out his argument carefully, indicating errors in the public perception and correcting them with his own argument. But it is not only the correction of errors that interests the Home Secretary. Blunkett’s primary aim is the development of an immigration and asylum policy that ‘looks forward’. As if repeating the instruction given to Creon by Tiresias, Blunkett warns the people not to act unwisely; he explains carefully that migration brings significant benefits and that it can advance the prosperity of the nation, provided it is properly managed. This last reservation makes Blunkett a thrifty prophet, resorting to the discourse of economics and management to explain his vision. As we know from Foucault, the biopolitics of modern democracies works precisely through ‘the administration of bodies and the calculated management of life’ (1984, p. 140). As if to illustrate this, it is by means of proposing ‘rational controlled routes’ of immigration (rather than ‘the international “free for all”, the so called “asylum shopping” throughout Europe, and the “it is not our problem” attitude which is too often displayed’) that Blunkett hopes to promote his policy. However, the calculated rationality of his outlook seems permanently threatened by the irrational – coming not only from the opponents of his policy but also from the author of the White Paper himself. After laying out his proposal for a ‘rational’ and ‘controlled’ economic migration and asylum system, Blunkett adds: ‘It is possible to square the circle’. At this instant the voice of reason founders, and immigration policy reveals that it is only a very rough sketch, one that allows the draughtsman to resort to illicit geometrical moves in order to complete the picture.

Indeed, Blunkett’s prophetic vision for Britain as a ‘safe haven’ depends on a number of exclusions firmly in place. First, the Home Secretary affirms that this new vision will only work if we are ‘secure within our sense of belonging and identity’. Significantly, Butler makes it clear that ‘This exclusionary matrix by which subjects are formed thus requires a simultaneous production of a domain of abject beings, those who are not yet “subjects”, but who form the constitutive outside to the domain of the subject’ (1993, p. 3). At best a utopian fantasy of homeliness, at worst a conscious foreclosure of ethics of openness to the alterity of the other – an alterity that *always* poses a challenge to our own security and self-knowledge – Blunkett’s politics of migration therefore seems premised on a logical impossibility.⁷ It is a hospitality that is in fact based on the originary closure, on foreseeing the foreign threat and trying to avert it. This is the moment when the classical heritage gives way to bizarre miscegenation. Blunkett-Tiresias stops instructing Creon to actually *become Creon*: a protector of the public sphere whose law both produces and excludes the unlawful, those without the integrity and belonging shared by the members of the *polis*. For it is this when he goes on to announce: ‘We have fundamental

moral obligations which we will always honour', only to counterbalance this claim with the following reservation: 'At the same time, those coming into our country have duties that they need to understand and which facilitate their acceptance and integration'. His paradoxical immigration policy of 'squaring the circle' is also described as 'a "two-way street" requiring commitment and action from the host community, asylum seekers and long-term migrants alike'. It is perhaps not surprising (which does not mean it is intentional on Blunkett's part) that a linguistic paradox is used when outlining *our* moral obligations and *their* duties, since the asylum seekers' position 'before the law' itself entails a paradox: even though they are *outside* it, they are supposedly *subject to* its power. Constituted as threshold political beings, migrants and 'asylum seekers' are defined precisely through their liminal status that places them on the outskirts of the community. Then how can they be expected to 'have duties' imposed on them by the host community and manifest commitment to these duties if this very community needs a prior definition of itself, a definition that confirms identity and belonging in relation, or even opposition, to what might threaten it? We also need to consider how the political status of asylum seekers and migrants is actually established. Who legislates the duties that they will be expected to follow? What is the source of the moral obligation that will help Britons 'manage' the asylum issue? Agamben explains that 'The sovereign decides not the licit and the illicit but the originary inclusion of the living in the sphere of law' (1998, p. 26).⁸ To what extent, then, is the sovereign entitled to impose the law on those whose identity he defines as being situated 'before' the law, both in the spatial and temporal sense? In particular, given that Iraqis constitute the majority of all asylum seekers in the UK, is this conditional openness in the context of the 'Gulf War II', not a certain blind spot in the rhetoric and politics of the sovereign government that does not see a connection between the Iraqi *refugees from* their own country, whose lives are threatened by Western bombs, and the Iraqi *asylum seekers trying to come into* Britain? This form of politics, with its underlying moral obligations, seems to be based on a certain occluded but inevitable and thus constitutive violence, where 'the sovereign is the point of indistinction between violence and law, the threshold on which violence passes over into law and law passes into violence' (Agamben 1998, p. 32).

Indeed, even the very process of naming an Iraqi, Albanian or Kurdish refugee an 'asylum seeker', towards whom the hospitality of the host nation is to be extended, is inevitably violent. Butler explains that 'The naming is at once the setting of a boundary, and also the repeated inculcation of a norm' (1993, p. 8). Taking account of the performativity of the hegemonic political discourses can enable us to shift the borders that delineate and establish the contours of the human within these discourses. This in turn can create a possibility for a new politics of immigration, a politics that is informed by an ethics of response and responsibility that goes beyond the set of moral

obligations. Looking at excluded, abject, non-human bodies positioned at the threshold of the legitimate political community, Butler declares:

The task is to refigure this necessary 'outside' as a future horizon, one in which the violence of exclusion is perpetually in the process of being overcome. But of equal importance is the preservation of the outside, the site where discourse meets its limits, where the opacity of what is not included in a given regime of truth acts as a disruptive site of linguistic impropriety and unrepresentability, illuminating the violent and contingent boundaries of that normative regime precisely through the inability of that regime to represent that which might pose a fundamental threat to its continuity.

(1993, p. 53)

Taking a cue from Butler, we might thus argue that a responsible immigration politics should not be based on the idea of integration and immersion but rather on the preservation of the outside as 'the site where discourse meets its limits'. This does not of course mean that all asylum seekers should be permanently kept on the threshold of the country or community they want to enter, and that we should naively celebrate them as an irreducible alterity that resists incorporation. However, it is to suggest that the biopolitics of devouring the other, of digesting and disseminating him or her across the body politic, in fact forecloses on the examination of the normative regime that establishes and legitimates the discourse of national identity. The 'asylum seeker' – itself a product of the regime to which s/he is subsequently opposed – can only function on the outside of that regime as its limitation and a guarantee of its constitution. (Once the community truly opens itself up to what it does not know, both its knowledge of alterity and self-knowledge are placed under scrutiny, a state of events that leads to the inevitable shifting of the boundaries between the host as the possessor of goods and the newcomer as their 'seeker'.) The idea of liberal multiculturalism in which all alterity is welcomed and then quickly incorporated into the host community risks occluding the violence at the heart of the constitution of this very community, even if this community defines itself in terms of diversity or pluralism, and not necessarily national or ethnic unity. The task of refiguring the 'outside' as a future horizon, without attempting to annul and absorb this outside altogether, presents itself as a more responsible response to the 'asylum question'.

An ethics of bodies that matter

It is through Butler's engagement with 'bodies that matter' that I now want to sketch an ethical response to the biopolitics of immigration practised by the UK and many other 'sovereign democracies'. Of course, Butler's own argument develops out of the investigation of the 'heterosexual matrix' which

legislates genders through the reiterated acting of accepted gender roles. Nevertheless, it also enables us to think through the regulatory mechanisms that are involved in producing/performing legitimate citizenship. Butler suggests that in our investigation of juridical acts that legislate different forms of political subjectivity we should turn to the notion of matter, 'not as a site or surface, but as *a process of materialization that stabilizes over time to produce the effect of boundary, fixity, and surface we call matter*' (1993, p. 9, original emphasis). She is interested in investigating how the materialization of the norm in bodily formation produces a domain of abjected bodies, a field of deformation that, in failing to qualify as the fully human, fortifies those regulatory norms (1993, p. 16). But the main thrust of her investigation is to find out what this contamination means for the 'universal acts' of Western democracies, and for the political actions embarked upon to guarantee the survival of these acts. And, further, if there is a certain ambivalence already inherent in these acts, can we think them otherwise? Butler thus formulates the following question: 'What challenge does that excluded and abjected realm produce to a symbolic hegemony that might force a radical rearticulation of what qualifies as bodies that matter, ways of living that count as "life", lives worth protecting, lives worth saving, lives worth grieving?' (1993, p. 16).

I want to suggest that the challenge that the excluded and abjected realm produces to a symbolic hegemony therefore comes in the form of an ethical injunction, in revealing the originary ethicality of the 'universal political acts' already in place. For these acts – such as the 2002 Nationality, Immigration and Asylum Act – can only be formulated *in response to* the other, an other whose being *precedes* the political and *makes a demand on it*. Knocking on the door of Western democracies, 'bodies that matter' are ethical in the originary Levinasian sense; they are already taken account of, even if they are to be latter found not to matter so much to these sovereign regimes. Butler's argument thus poses a blow to the alleged sovereignty of the democratic subject, whose response to the needs of the 'other' has to be properly managed through the application of utilitarian principles intermixed with a dose of human-rights rhetoric. Though in *Excitable Speech* she does not arrive at her questioning of political subjectivity via Levinas but rather via a parallel reading of Austin and Althusser, to me her account of 'how the subject constituted through the address of the Other becomes then a subject capable of addressing others' (1997, p. 26) sounds positively Levinasian.⁹ In *Totality and Infinity*, Levinas describes this relationship between self and other in the following way:

The alleged scandal of alterity presupposes the tranquil identity of the same, a freedom sure of itself which is exercised without scruples, and to whom the foreigner brings only constraint and limitation. This flawless identity freed from all participation, independent in the I, can nonetheless lose its tranquillity if the other, rather than countering it by upsurging on the same plane as it, speaks to it, that is, shows himself in expression, in the face,

and comes from on high. Freedom then is inhibited, not as countered by a resistance, but as arbitrary, guilty, and timid; but in its guilt it rises to responsibility. . . . The relation with the Other as a relation with his transcendence – the relation with the Other who puts into question the brutal spontaneity of one's imminent destiny – introduces into me what was not in me.

(1969, p. 103)

Levinas understands this inevitability of responsibility and ethics as a need to respond to what precedes me and challenges my self-sufficiency and oneness, to what calls on me to justify 'my place under the sun'. This realization is crucial for developing our notion of citizenship and political justice. To actively become a citizen, a host, a member of the public sphere – instead of just passively finding oneself inhabiting it as a result of an alleged privilege that occludes what it excludes – I need the other not in a negative sense, as an outside to my own positive identity, but to put me in question and make me aware of my responsibility. This is the only way in which mature political participation can take place; otherwise we will only be 'running a software', as Derrida describes it, i.e. applying a ready-made computer program to an allegedly predictable situation in which a need for a decision gives way to a technicized manoeuvre. It is the other that makes me aware of the idea of infinity in me, an idea that, according to Levinas, 'establishes ethics' (1969, p. 204). Through an encounter with the other I realize that the political subjectivity I inhabit is always temporarily stabilized, that it can be changed, redrafted or, to use Butler's term, recited. And it is biopolitics that establishes a certain sense of normativity through managing and regulating 'bare life', a life that is subject to this ethical injunction, to intrusion and wounding, to a call to response and responsibility.

Levinas writes, '*To be a body* is on the one hand *to stand* [*se tenir*], to be master of oneself, and, on the other hand, to stand on the earth, to be in the *other*, and thus to be encumbered by one's body. But – we repeat – this encumberment is not produced as a pure dependence; it forms the happiness of him who enjoys it' (1969, p. 164, original emphasis). One might perhaps conclude that the situation the self finds itself in is indeed tragic, and that the need to bear the weight of corporeality that is not all mine does not easily lead to 'happiness'. However, Levinas does not propose a naïve celebration of difference; he only suggests the openness to (or the enjoyment of) what befalls us may be, in the long term, an easier and *better* response to our corporeal existence. It is precisely this openness and enjoyment that my term 'an ethics of bodies that matter' refers to.

The problem of openness which is to be extended to our current and prospective guests – even, or perhaps *especially*, unwanted ones – is, according to Derrida, coextensive with the ethical problem. 'It is always about *answering for* a dwelling place, for one's identity, one's space, one's limits, for

the *ethos* as abode, habitation, house, hearth, family, home' (Derrida 2000, pp. 149–151, emphasis added). Of course, this absolute and unlimited hospitality can be seen as crazy, self-harming or even impossible. But ethics in fact spans two different realms: it is always suspended between this unconditional hyperbolic order of the demand to answer for my place under the sun and open to the alterity of the other that precedes me, and the conditional order of *ethnos*, of singular customs, norms, rules, places and political acts. If we see ethics as situated between these two different poles, it becomes clearer why we always remain in a relationship to ethics, why we must respond to it, or, in fact, why we will be responding to it *no matter what*. Even if we respond 'non-ethically' to our guest by imposing on him a norm or political legislation *as if it came from us*; even if we decide to close the door in the face of the other, make him wait outside for an extended period of time, send him back, cut off his benefits or place him in a detention centre, we must already respond to an ethical call. In this sense, our politics is preceded by an ethical injunction, which does not of course mean that we will 'respond ethically' to it (by offering him unlimited hospitality or welcome). However, and here lies the paradox, we *will* respond ethically to it (in the sense that the injunction coming from the other will make us take a stand, even if we choose to do nothing whatsoever and pretend that we may carry on as if nothing has happened).

The ethics of bodies that matter also entails the possibility of changing the laws and acts of the *polis* and delineating some new forms of political identification and belonging. Indeed, in their respective readings of Antigone, Butler and Derrida show us not only that the paternal law towards the foreigner that regulates the idea of kinship in Western democracies can be altered but also that we can think community and kinship otherwise. If traditional hospitality is based on what Derrida calls 'a conjugal model, paternal and phallogocentric', in which '[i]t's the familial despot, the father, the spouse, and the boss, the master of the house who lays down the laws of hospitality' (2000, p. 149), openness towards the alien and the foreign changes the very nature of the *polis*, with its Oedipal kinship structures and gender laws. Since, as Butler shows us, due to new family affiliations developed by queer communities but also as a result of developments in genomics it is no longer clear who my brother is, the logic of national identity and kinship that protects state boundaries against the 'influx' of asylum seekers is to be left wanting. This is not necessarily to advise a carnivalesque political strategy of abandoning all laws, burning all passports and opening all borders (although such actions should at least be *considered*), but to point to the possibility of resignifying these laws through their (improper) reiteration. Enacted by political subjects whose own embodiment remains in the state of tension with the normative assumptions regarding propriety, gender and kinship that underlie these laws, the laws of hospitality are never carried out according to the idea/1 they are supposed to entail (cf. Butler 1993, p. 231).

It is precisely Butler's account of corporeality and matter, of political subjectivity and kinship, which makes Levinas' ethics (and Derrida's reworking of it) particularly relevant to this project. Although the concepts of the body and materiality are not absent from Levinas' writings – indeed, he was one of the first thinkers to identify embodiment as a philosophical blindspot – Butler allows us to redraw the boundaries of the bodies that matter and question the mechanisms of their constitution. Her 'others' are not limited to 'the stranger', 'the orphan' and the 'widow' of the Judeo-Christian tradition, the more acceptable others who evoke sympathy and generate pity.¹⁰ It is also the AIDS sufferer, the transsexual and the drag queen – people whose bodies and relationships violate traditional gender and kinship structures – that *matter* to her. By investigating the contingent limits of universalization, Butler mobilizes us against naturalizing exclusion from the democratic *polis* and thus creates an opportunity for its radicalization (1997, p. 90). The ethics of bodies that matter does not thus amount to waiting at the door for a needy and humble asylum seeker to knock, and extending a helping hand to him or her. It also involves realizing that the s/he may intrude, invade and change my life to the extent that it will never be the same again, and that I may even become a stranger in the skin of my own home.

Notes

- 1 Anthony Browne argues in *The Spectator* that, by promoting mass immigration from the Third World, the New Labour has been importing killer diseases:

The thousands of infected immigrants who are arriving in Britain each year are doubling the rate of HIV, trebling the rate of TB, and increasing twentyfold the rate of hepatitis B. All of these are life-threatening diseases which could be, and in some cases have been, passed on to the host community.

(2003, p. 12)

A similar argument concerning the USA is made on the website of FAIR: The Federation for American Immigration Reform:

The impact of international migration on our public health is often overlooked. Although millions of visitors for tourism and business come every year, the foreign populations of special concern are immigrants – one million arriving as permanent residents each year – and illegal residents, most often from countries with endemic health problems and less developed health care. These populations are of greatest consequence because they are living among us and often are using U.S. health care services. . . . When the migrants develop TB they often remain

untreated, as health systems tend to overlook mobile individuals. They can then spread TB to others in crowded housing and can infect otherwise healthy populations as they move through new towns and countries.

(<http://www.fairus.org/html/04149711.htm>)

- 2 See in particular her *Excitable Speech* (1997, pp. 1–41, p. 72, pp. 141–159).
- 3 This ethical position has subsequently been taken up by a number of contemporary thinkers, including Jacques Derrida, Luce Irigaray, Ernesto Laclau and Chantal Mouffe. Butler's own work engages with similar ethical discourses. This is most explicitly articulated in her *Excitable Speech* (which to me has a quasi-Levinasian feel, although Butler develops her argument regarding response, responsibility and speech via Althusser's work on interpellation) and *Antigone's Claim*. But I would argue that a certain sense of ethical normativity that underpins any political practice – a normativity of the kind she discusses with Ernesto Laclau and Slavoj Žižek in their collaborative project, *Contingency, Universality, Hegemony* – can already be traced in her *Gender Trouble* and *Bodies That Matter*.
- 4 This is how the UK Home Office explains its asylum procedures: 'When an asylum application has been made, the applicant is screened, during which his or her personal details are recorded, and his or her fingerprints and a photograph are taken. These details are put on an Application Registration Card (ARC) which is issued to the applicant'. It then explains that 'a package of measures to increase security at the Fréthun rail freight yard has been agreed. This package includes a double fence, lighting and video surveillance equipment, a vehicle track inside the perimeter, alarm systems, infrared barriers, and the deployment of additional gendarmes and private security personnel'. Early in 2003, it is 'planned to activate an EU-wide fingerprint database of asylum applicants and certain other third country nationals, known as "Eurodac". This will allow for the computerized exchange of fingerprints in order to identify those applicants already known other participating states.' Source: 'Fairer, faster and firmer-an introduction to the UK asylum system' (<http://www.homeoffice.org.uk>).
- 5 The White Paper is the last-stage pre-legislation document before the official act is published.
- 6 This and all the subsequent quotes from 'Secure Borders, Safe Haven' have been taken from an Internet version of the document, available at <http://www.asylumsupport.info/law/act.htm>
- 7 A Western politician, just as any other citizen or 'political subject', does not need to be well versed in Levinas' or other writings in cultural studies or continental philosophy to find him- or herself called upon by the ethics of openness that demands a response and responsibility. Of course, this call can be ignored or even violently silenced but it has to be responded to in some way.

- 8 For a detailed discussion of the question of the law and the significance of being placed 'before the law', see: Jacques Derrida, 'Before the Law' in Jacques Derrida, *Acts of Literature*, Derek Attridge (ed.), Routledge, New York and London, 1992; Giorgio Agamben, 'The Logic of Sovereignty' in his *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen, Stanford University Press, Stanford, 1998.
- 9 The following part of the quote from *Excitable Speech* is also significant for tracing a parallel between Butler and Levinas: 'the subject is neither a sovereign agent with a purely instrumental relation to language, nor a mere effect whose agency is pure complicity with prior operations of power. The vulnerability to the other constituted by that prior address is never overcome in the assumption of agency (one reason that "agency" is not the same as "mastery")' (1997, p. 26).
- 10 Shannon Bell raises similar questions regarding Levinasian ethics in her paper, 'Fast Feminism: A Levinasian Pragmatics', available online at: <http://www.hichumanities.org/AHPProceedings/Shannon%20Bell.pdf>

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