

DISCUSSION

Ethics and Selfhood: A Critique

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Ethics and Selfhood: Alterity and the Phenomenology of Obligation. By James Richard Mensch. SUNY Press, 2003. Pp. 215. ISBN 0-7914-5752-4. \$20.95 (pbk).

James Richard Mensch has written a number of books on the meaning of modernity and postmodernity, on the nature of phenomenology and transcendental idealism, and in particular, on the issues of intersubjectivity, alterity and embodiment. His latest book, *Ethics and Selfhood*, brings these interests to bear on a new issue, namely, the kind of selfhood which morality demands. The subtitle speaks of *Alterity and the Phenomenology of Obligation*, and the stated aim is ‘to establish the nature of our ethical selfhood phenomenologically’ (p. 9) by showing that the self already has an inbuilt relation to the other. This is an original attempt to open up new ground in sketching an account of the requirements for genuinely ‘moral selfhood’, involving a subtle reading of selected key developments in modern philosophy. The argument is complex and wide-ranging, and so I shall briefly summarize its chief claims before offering my interpretation (with which the author may or may not agree) and some critical comments to further the dialogue that Mensch has initiated in this fine book. Reading the book, one gets a strong sense of genuine moral concern and, at times, hints of a religious sensibility, but he is also capable of forceful critique and, in this book, has found, I believe, his own distinctive moral voice.

The book is part of a growing movement of phenomenological approaches to ethics. William S. Hamrick has recently offered a phenomenology of kindness in his *Kindness and the Good Society: Connections of the Heart* (Albany, NY: SUNY Press, 2002), which complements Mensch’s analysis in many ways. Werner Marx has also attempted a phenomenological ethics based on compassion,¹ and both Robert Sokolowski² and John Drummond³ have examined the nature of moral action and the moral emotions. Hamrick in particular covers much of the same ground, but, in dealing with acts of extraordinary kindness and generosity, he uses the term

‘Samaritanism’ and opposes the ‘callousness’ of those, for example, who lived in full view of Nazi death camps and ‘saw nothing’. Both Hamrick and Mensch draw on literature for inspiration, and recognize the impact of Martha Nussbaum in this regard. Both works try to go beyond the tradition of transcendental subjectivity to emphasize the manner in which ethics emerges from and must continue to respect our embodiedness and situatedness in a world with others.

Firmly rooted in the phenomenological tradition, Mensch is also sensitive to the legacy of past philosophy and open to possibilities in classical moral thought (e.g. Plato, Aristotle) that have been neglected or distorted in the modern attitude. Mensch offers a historical re-reading of the classics of the ethical tradition (Plato, Aristotle, Descartes, Kant, Mill, Freud). For instance, he agrees with Aristotle’s account of virtue as a habit, as a kind of moral organ to complement the five senses. But he also draws on Kierkegaard, Levinas, Arendt, Luc Ferry and Ed Casey, as well as Freud and Darwin, to elucidate points concerning the freedom, responsibility, intersubjective dependence and plurality of the human condition. More unusually for someone writing from the phenomenological standpoint, he finds much that is relevant to ethics in Darwin’s account of evolutionary survival (which he construes as involving maximizing life and promoting diversity).

The Deep Challenge for Ethics: Genocide

Mensch begins with a challenge: surely any genuine moral response to evil and barbarity ought, at the very least, to be able to recognize and oppose genocide. If there is such a thing as training in virtue, surely any such moral education should be able to recognize this most egregious of horrors. Yet, the majority of citizens in Germany and Austria between 1933 and 1945 appear to have been unable to make that moral response (there are, of course, issues as to their ability to know or to react in a totalitarian police state). How is that possible? What has gone wrong? Mensch suggests that it belongs to the very nature of genocide and other such crimes *against humanity* to challenge and break up the very framework that makes ethics possible. In a sense, these crimes take us *beyond* humanity; they take place ‘outside’ it. Traumatic experiences and situations such as everyday life in Nazi Germany eliminate the very context that allows normal human beings to *make sense*. In this sense, the Holocaust genuinely eludes rational explanation (p. 134). A measure of its senselessness is that Hitler chose to pursue it even at the price of sacrificing Germany itself (diverting trains and so on weakened the war effort). This kind of inability to react morally is rooted in an inability to make sense of events; the new, alien context has rendered the times literally without sense. Mensch here draws on the philosopher Emil Fackenheim’s analysis of the ‘senselessness’ of the Holocaust, which

seemed to remove all opposition and critical thinking. He also cites Freud's account of trauma as the disruption of the ego's 'synthetic function' (p. 126). Extending Mensch's analysis, one can point to the moral failure of democratic countries that can tolerate and even justify torture and radical disregard for human rights on the grounds of the exigency of the times. For evil to triumph, it is enough that good men do nothing.

Yet, as Mensch points out, even against this background of senselessness, certain individuals (and it was almost always *isolated* individuals, and again, impossible to predict just who) were able to break with the norm and, for example, assist Jews during the Nazi era. Such *rescuers* (Mensch distinguishes them from *heroes*) – the 'righteous', in religious language – act outside the norm. Those who rescued Jews broke with the prevailing social mood of silence and acquiescence present in their societies. According to the phenomenological distinction Mensch makes, rescue demands open-ended commitment over years (p. 100) and hence is to be distinguished from one-off acts of heroism. Such extraordinary acts of rescuing a life are not called for in 'normal' society (p. 97); rather, in normal times, there is space for the 'hero' to act. The hero, e.g. someone who saves a child from drowning, operates within the context of normal society. But in situations such as that of Nazi Germany, public morality made it a criminal offence to assist in the rescue of others. These 'others' (Jews, gypsies, homosexuals, Slavs, *Untermenschen* of varying kinds) had been demonized, considered to be a contamination in the social order, to be exterminated (*vide*: 'the Jewish virus'). How is it that the rescuers in such an abnormal society were able to recognize the other's suffering and need, while the majority either assisted or at least acquiesced in the persecution of the Jews? As Mensch points out, even the Pope did not publicly intervene on behalf of the Jews.

Why did people who were in other respects highly moral not respond to the needs of others in this genocidal situation? Mensch's question is an extraordinarily challenging one for ethics. Moral collapse on such a scale calls out for analysis, and moral theories need to recognize that they rarely have the resources to account for, far less promote, such righteousness, such 'acts of supererogation', acts above and beyond the call of duty, Good Samaritan acts. Mensch believes that the reason why such acts of courageous rescue were rare is that the barbarism that overran the society had removed the very *context* in which morality acts. His counter-thesis is that, in order to preserve morality, one must also *preserve the very context* that allows for and enables moral judgement. This is the kind of argument that is often used to criticize excessive violence on TV or toleration of cruelty to animals, and so on. Toleration of such behaviour brutalizes the community, destroys the context for moral action. Focus on this context in turn requires us to give an account of what context-setting means, what 'framing' or 'putting into place' is, as Mensch calls it (p. 146, drawing in part on Ed Casey's account of place). We have to judge the *frame in which* we have

been placed (p. 147). Unfortunately, as we shall see, I believe that Mensch does not give an explicit analysis of what is meant by *context* here. For him, as for Arendt and the Heideggerian tradition, the 'context' involves being-in-the-world, in plurality. Mensch proceeds to flesh out his notion of the context for morality by describing intersubjective life in the world.

If Ethics is Possible, What must Self be Like?

Mensch begins with a question in transcendental register: if morality is possible, what must self be like? Any coherent theory of ethics requires an account of selfhood (p. 8). Furthermore, Mensch holds that difficulties in modern morality are largely due to the failure and inadequacy of its various accounts of the nature of self (p. 45). He wants, then, to explicate an alternative concept of the self, based on phenomenological recognition of 'self-alterity', our experience of our own otherness. The self, for Mensch, has an 'inherent' (p. 9) or 'inner alterity' (p. 175). A self is understood as a 'for itself' (p. 174), but it is also a 'for others', which essentially means that it is also intertwined with others. Mensch begins from a broadly Husserlian (or Merleau-Pontian) account of the self as intentional, according to the original meaning of intention as a reaching-towards or straining-towards something (p. 154). The essence of consciousness is intentionality, and, 'as intentional, consciousness is inherently transcendent' (p. 154). Again in the Husserlian tradition, the self here has both immanence and transcendence. The baby first strains towards the other, who is transcendent to him or her, but s/he does so in order to recover his or her original integrity (here work by Gail Soffer is drawn on). Mother and baby are originally fused and then become separated at the birth, but the mother is still given as a completion of the baby: 'My caregiver appears to me as an extension of my "I can"' (p. 153). Indeed, it is in learning to cope with this separation that the baby experiences the world as common to both himself or herself and his or her mother/care-giver.

The subject, then, is always in a world with others, but it also transcends every situation. It belongs to the essence of the givenness of the subject that the subject is not able to be given (p. 153). There is an essential 'hiddenness' about the self. In part, this is because intentionality is primarily other-oriented, and it takes a special reflexive turn for the self to encounter itself. In its original intentionality, the subject precisely is hidden in the self-manifestation of the object. This has been discussed by Jean-Luc Marion at some length in his analyses of givenness as such, with his critique of Husserl for assuming that every form of givenness manifests itself as an objectivity. Marion is precisely interested in those phenomena and forms of givenness that escape objectivization. It is a pity, then, that Mensch does not address Marion at this point in his discussion of the hiddenness of the self.

The self-transcendence of the intentional act, its 'self-evacuation' in perception, for instance, highlights, for Mensch, the fact that our experience

of being is that of being in a common public world. But we are at the same time thrown back on our hiddenness: 'The selfhood we do transcend is, in this context, a hiddenness in the world we are "in", a hiddenness that owes its origin to the intentionality that directs us to this world' (p. 155). We come to be aware of the hiddenness of our own self through our experience of others. In other words, my sense of self is built upon my experience of intersubjectivity, and not the other way round.

The other makes me aware of my own *objectivity*, makes me realize that I too am an object (as Sartre has explored). To place myself in space, I require the other. But similarly, I experience the other as more than an object, as also a subjectivity that is hidden and cannot be given (p. 159). This other has his or her own temporality that I cannot fathom, and so on. I achieve my identity for myself in my response to the other (p. 106). Out of this complex of mutual recognition of self and other emerges the notion of *empathy*, literally, the feeling oneself into the position of the other. Mensch's account here is drawn largely from Husserl. I experience the other as a 'decentering' of myself (p. 163). Even my own presence to myself 'transcends' me in a particular way (p. 90).

The self draws its sense of moral obligation from its internal tension with the 'presence of the other in *us* as *other*' (p. 13). According to Mensch, conscience is precisely the presence-of-the-other-in-me. This presence of the other in *us* as *other* gives a certain tension to the self. We experience this tension as an 'ought'. Our presence to self includes an experience of 'the others that are in us' (p. 90). Being ethical requires preserving the kind of self-presence of the personal self in its self-alterity.

Conscience and empathy are integral aspects of selfhood and are part of its 'other-relatedness'. Integral to the experience of self is the ability to recognize and occupy alternative standpoints. This is a key phenomenological insight that derives from Husserl, but it is developed by Mensch as a way in which the self is not just open to others but somehow has to become attuned to the other within itself, its own inner alterity. As in Husserl's account, the experience of the other is based on empathy. I imaginatively take up the other's position. This 'doubling of selfhood' is implicit in all empathy (p. 44); and it is a condition of the moral perspective in the first place. I must allow the other the freedom that I experience in myself (p. 159).

Mensch is emphatic both about the *uniqueness* of each self and about the need to recognize that a self needs what he calls a 'context' in which to operate. Dealing with the individual provides a kind of 'absolute' situation. He also acknowledges that there can be no deduction of moral principles. Contra Mill, morality cannot be about rule following. The ethical response demands that individuality be recognized as such. Each individual creates his or her own world, although he or she does so by reacting to his or her context (p. 103), limited by human finitude (p. 144). The origin of each new

person is an event, which in a sense brings about a new world (this echoes Arendt). Each individual being inaugurates a new temporal series. As Mensch writes: ‘with each new birth of flesh, time begins’ (p. 163). The problem then becomes how to recognize and preserve this individuality. An appeal to human rights must not be seen as reducing the subject to some ‘uniform quantity’ (p. 169), as Mensch puts it. He therefore does not want to base his morality on Kantian universalization and formalization. He wants to accept the individual’s uniqueness, freedom and self-responsibility but also to defend its call to recognize others. The self needs a context, and it gains this context from being-in-the-world with others, and open to others. There are moral imperatives rooted in our being-in-the-world (p. 170). Mensch agrees with Kant (p. 62) that my freedom is my very selfhood. This very autonomy, however, is an abstraction. I have individuality only as an appearing self (p. 63). Freedom involves separation (p. 64).

Turning to the history of philosophy, Mensch recognizes that some sort of tension in the self has been identified by thinkers from Plato onwards. Plato, for instance, contrasts the rational and the appetitive; Kant contrasts reason and inclination, the intelligible world with the sensible, and so on. Here I shall focus specifically on Mensch’s discussion of the characterization of the self in modern philosophy and shall not spend much time on his phenomenological reconstruction of the history of ethics, which John Drummond has also analysed in his presentation.

The Phenomenological History of Ethics

Mensch’s phenomenological history of ethics in Chapter 3 aims at establishing that the self-alterity of the self has actually already been recognized in moral philosophy, even if it has not been explicitly thematized. Plato, for instance, recognizes the duality of selfhood in his contrast between the rational and the appetitive parts of the soul in the *Republic* and *Gorgias*. According to Mensch, Plato’s *Gorgias* is his most extended discussion of ethics, and here the battle is between appetite (which seeks pleasure) and reason. The self that follows inclination is embodied. However, for Plato, my real self is the self of reason (p. 61). This is particularly clear in the *Phaedo*. For both Plato and Kant our primary access to others is through reason. While Plato recognizes the duality of self and other, he also undermines it. In the end Plato settles for the contrast between the sensible and the ideal world.

Some contrast between the sensory and supersensory worlds is also presupposed by Kant, and accompanying this division, we have a similar division of self. As Mensch elegantly puts it: ‘if the sensory world were the whole story, there would be no moral action in the Kantian sense’ (p. 58). For Kant, I belong to both realms, and hence there is an internal split in my nature (p. 60). To be obligated is to belong both to the sensory and to the intelligible worlds at the same time, for Kant. My ‘ethical selfhood’ arises in

negotiation between these worlds. Selfhood for Kant, then, requires some kind of self-separation. Kantian universality is a kind of self-distantiation (p. 59) in Mensch's analysis. However, the self is still primarily rational and, for Kant, *others* are understood as the totality of rational agents. Mensch sides with Arendt's critique of the Kantian formulation that a person is an 'end in itself'. Ends cease to be ends once accomplished (p. 122).

The De-Contextualization of the Self in Modern Philosophy

Mensch believes that one of the stumbling blocks to recognizing the nature of the ethical and its relation to the self is the problem of the modern conception of the self itself, which, with its de-framed emphasis on autonomy, he believes, has 'eliminated the context required to make sense of the self' (p. 17). The collapse of context is rooted in the very condition of modernity. A number of philosophers have discussed this modern conception of the self, from Husserl in the *Crisis of the European Sciences* to Charles Taylor's *Sources of the Self*. To that extent, Mensch's account is reasonably familiar. In fact, the critique of the 'modern' concept of self has its origins in Hegel's *Phenomenology of Spirit* (1807), which suggests that modern philosophy is not entirely in the grip of the Cartesian-Kantian transcendent isolated worldless self (and it is a pity that Mensch makes no mention of Hegel in his account).

According to Mensch, the modern idea of the subject eliminates the very context that allows us to understand the self as moral. The modern attempt to make the subject normative is an attempt to draw moral standards from the self. But this very emptying out and de-worlding of the self hinders the possibility of understanding it morally at all. This dissatisfaction with the modern view of the self legitimates a return to the pre-modern Aristotelian view of the self as open to what is non-self (p. 33). According to Aristotle, the soul is 'in a certain way all things'. This self is conceived as a kind of openness – the openness of time that precisely because it has no content can take on every content.

Against the tradition of modern philosophy, there is an urgent need to protect the 'context' that enables selfhood. This context is the embodied, historical plurality in contrast to the abstract universal of the sciences. Mensch begins from the ideals of modernity – autonomy and universality (p. 6) and the discovery of the 'abstract' subject, the pure observer. He finds Descartes guilty of a radical 'deframing' of the self (p. 21), which had an impact on subsequent philosophy. Descartes developed a notion of the self as essentially 'outside' the universe, acting as an Archimedean point. The Cartesian self is not part of the world but an Archimedean point outside the world, a kind of ideal scientific witness. This 'I' cannot be pictured in imagination (p. 31) for Descartes. This transcendent self is precisely not embodied. The Cartesian self never encounters another (p. 43).

Mensch further argues that the Cartesian transcendent self is actually incorporated into the Kantian philosophy. (This is also Heidegger's position in *Being and Time* §6.) Kant positions the subject beyond the world. For Kant, the self does not appear in the stream of appearances. The subject is outside causation and appearing. It is the subject of 'affection', but what can this be? I have no knowledge of myself as I am, but only as I appear to myself. As Husserl says, it is a form of subjectivity that I cannot make intuitive to myself. What we can recognize is the operation of rules of understanding, essentially rules of synthesis. These reside in the subject as 'self-activity of subject' (*Critique of Pure Reason*, B Edition 131). The subject itself is an uncombined unity and hence beyond the categories. Unity of subject is not the category of unity for Kant (p. 29). The Kantian self is a 'transcendental unity of apperception', and as such it is essentially a synthesizing function about which nothing 'substantive' can be said.

Despite this unavailability and transcendence of the self, according to Kant, the essential condition for morality is the autonomous will. The only thing that can bind us as free beings to follow the moral law is ourselves (p. 148). But this freedom is also thought of, by Kant, in a disembodied way. To arrive at the moral imperative, we must remove the individual, abstract from personal differences between rational beings and follow the categorical imperative, universalizing what ought to be done in the situation *by anyone*, regardless of self-interest, etc. We must, quoting Kant, abstract from the personal differences between rational beings (p. 46). Mensch, on the other hand, following Merleau-Ponty, wants to emphasize that embodiment is an ineliminable condition for experiencing the other as other subject. Selfhood requires embodiment (p. 46). Embodiedness implies a singularity of perspective (p. 12); by virtue of being embodied, the self gains its particular sense of presence (p. 43). This fleshly self resists universalization.

In Chapter 5, on an 'Ethics of Framing', Mensch introduces the 'ontological categories' of being-in-place and being out-of-place (p. 122), drawing in part on Ed Casey's discussion of place, ways of thinking of something being good or evil. Something out of place can wreak destruction; in-place means fitting to the environment (which Mensch cashes out in terms of both Aristotle and Darwin).⁴ Goodness is 'being-in-place', which both grounds and is grounded in the whole (p. 126). In contrast to goodness, evil, for Mensch as for Levinas, cannot be integrated (p. 137). Mensch draws on the figure of Kurtz in Conrad's *Heart of Darkness* to typify the experience of senselessness of the Congo, the indifference of the colonialists. This senselessness is the non-recognition of evil (p. 130). Kurtz is an extremist who stands outside the context of sense. Kurtz and the Nazis are out of place. But isn't freedom being 'out-of-place'? Mensch's response is that he regards freedom as necessary to morality but does not characterize freedom as being 'out of place' (p. 148). Rather autonomy includes the 'subject being framed by its others' (p. 148). But what precisely does this mean?

The book ends with an analysis of the political context necessary for action. Mensch points out how difficult it is to make the transition from ethics to politics. His account of politics is largely based on Arendt's distinction between labour, work and action. Mensch regards all three as essential to the working of society. He regards it as necessary to act to preserve plurality, the multiplicity of societies etc., to prevent them collapsing into one (p. 181).

Assessment and Critique

Mensch's book is genuinely original and challenging. It offers an original and at times penetrating interpretation of traditional ethical positions (Plato, Aristotle, Kant, Mill, Freud) in the light of their conception of the moral self. On the other hand, there is a lack of system in his exposition of the ethical. This needs a more systematic elaboration rather than the series of suggestive hints scattered through the book. While it is certainly true that morality demands an account of selfhood, and Mensch does provide a very interesting account, we need more detail concerning his account of the ethical or moral itself. For instance, Mensch is not impressed with utilitarianism and is closer to the virtue ethics position, to the position of Aristotle that being moral is a *habitus*. He criticizes the formalism of Kant, which ignores the individual, but also criticizes some of Levinas's formulations. In his positive account of morality, I find that there is a mismatch between his phenomenology and his heavy dependence on a kind of Darwinian survival or maximization of life account which goes strongly in the direction of a naturalism that much of the phenomenological account challenges. Mensch does embrace an ethics of tolerance, which he sees as a positive moral value. In Husserlian terms: you affirm my values as mine, not necessarily as values or goals for you, but as *valid for me* (p. 143). In his discussion of the importance of the context for moral action and decision, Mensch formulates a new imperative: do not make choices for which you cannot provide a context. But surely, this needs much more elaboration. He speaks of a context of plurality, and about 'negotiation'. Morality involves negotiation with others. But how does this work? We need guidance about how to 'negotiate'. I am afraid that there is too much left unsaid here, especially when Mensch invokes the 'Darwinian and Leibnizian ideals of diversity and order' (p. 142). One is confronted today by many Darwinian naturalists (e.g. Richard Dawkins and Daniel Dennett) whose message is precisely that evolutionary survival has nothing to do with morality, but is blind chance in operation.

With regard to the overall project of attempting to explicate the sense of the moral self from the person of the rescuer in abnormal societal contexts, I am not sure that one can build a morality on the extreme cases, on the 'limit situations' which in fact appear to take us *beyond* any context. It is

certainly true that the challenge to act morally is a more difficult challenge than most moral philosophers admit; I am not sure how much we can make of individual acts of great charity, courage, nobility (or whatever virtues are involved).

I have other worries. In some cases, it is really only a matter of taking the debate further, fleshing out the phenomenology of 'rescue', and so on. I am not sure if I accept the contrast between *rescuer* and *hero* as Mensch draws it. Many heroes also acted over a period of time (Nelson Mandela, Mahatma Gandhi).⁵ Moral studies are, as Aristotle observed, concrete studies, and here we need to draw as much as we can from other sciences. There have been psychological studies of heroes etc., and their evidence is suggestive if not compelling (Mensch doesn't draw on them, but they would be interesting material for his study of the phenomena of rescuing). Mensch could have made more of certain studies, e.g. Kristen Renwick Monroe's *The Heart of Altruism* (Princeton University Press, 1996). Take, for instance, a study of bravery by Frank Farley, a professor of psychology at Temple University, who believes that he has identified certain character traits: (unsurprisingly) courage, kindness, generosity, honesty, and also 'thrill seeking'. He believes that all heroes show a certain *self-confidence*. Others, however, who have studied bravery in wartime situations point out that people who can operate well in chaos are often people who have a chaotic background in their own lives. They are able to cope with this chaos and cut through it to the essential (an example is Major Peter McMullan, awarded an MBE for bravery in Basra in the Iraq war).⁶ Ervin Staub (University of Massachusetts) has studied altruism and the lack of it, and maintains that most heroism is bred out of children at an early age, because they are not taught the importance of distinguishing between different rules. In the experiment, children are told to wait in a room (they are given writing and drawing tasks) and told not to leave the room unless their pencils break. Then sounds of distressed children from another room are played. Some kids put their hands over their ears to cut out the noise, but one child deliberately snaps three pencils in order to be able to leave the room and find out what is wrong. Staub argues that children are not taught that in extreme situations they can override the rule. Psychologists do concur with Mensch about one aspect – people are much more likely to act heroically when on their own. If they are in a group with others, they are much less likely to intervene. Heroism or the ability to act as rescuer seems to speak to the individual in the depths of his or her soul, in his or her conscience. Mensch does have an account of this, but what do we mean by the *context* out of which the self operates?

Does the individual self that acts morally *need* a context or 'frame' out of which to operate? Mensch speaks of the 'collapse of the context of sense' (p. 127). What becomes clearer later is that individuals themselves embody a 'context of sense' (p. 143). Invoking Kierkegaard's 'knight of faith', Mensch maintains that, in these crucial moral decisions, the single individual

is higher than the universal. The person's commitment is both absolute and totally individual. It is not relative to a context. Rather the individual creates a kind of absolute context. But why, then, does context matter? How can we say something about context in a way which will make it evident why some people act morally? Mensch has a moral principle: one should not make choices where one cannot provide a context for them (p. 146). But what does this mean? His example is that one should not save a child without providing care-givers.

Finally, let me explore a true situation which picks out both heroism and the issue of context. A woman named Mukhtaran Bibi in Meerwala, Punjab Province, Pakistan was 'sentenced' to be gang raped by tribal elders at a council meeting or *panchayat* of the socially powerful Mastoi tribe. Instead of committing suicide out of shame as expected, she reported the matter to the authorities, risking further shame and mistreatment in the process (in March 2005 her assailants were acquitted by a court in Lahore citing inadequacies in the police investigation of the incident). Clearly, she is appealing beyond the context of her society.⁷ Mukhtaran Bibi is appealing to some universal non-cultural concept of justice, a concept of justice that is, as Derrida might put it, 'undesconstructible', or as Caputo says, one that is 'unconditional'. As a matter of fact, of course, she was in the first instance appealing to the *secular* justice of the military general, President Pervez Musharraf, the head of state, who supposedly has put her under protection. But there are wider contexts that can be pointed to, for instance, human rights treaties (including the Convention on the Rights of the Child) which Pakistan itself has signed, as the International Committee of Jurists point out in their letter to President Musharraf. It is these 'contexts' – the contexts of International Human Rights declarations, the Geneva Convention, and so on – that now give a universal context to the evaluation of acts as moral or immoral. Or at least, that is how the unconditional and transcendent sense of justice gets translated in the world. But we still know so little about how someone has that moral intuition to begin with, and why it can be diminished or concealed in so many others, who go along with the unjust tribal practices or the broader injustices of the country (including corrupt police, cultural impediments constraining women, a tribal sense of retribution, and so on). To understand all this, I think that it is too easy to speak of senseless contexts and individual 'rescuers'. It is all more complex than that, and perhaps more depressing in that it must be faced that entire societies can be seriously morally deficient (one has only to think of the survival of slavery from antiquity into the contemporary world). Indeed, Mensch does recognize that safeguards for the moral self are to be found in universal human rights (p. 169), but it is not clear how he justifies or derives those rights from within his phenomenological perspective (in agreement with other phenomenologists, he is not in favour of Kantian formalist accounts). His account is quite difficult here – the public realm is itself the condition

for the privacy and hiddenness of the self. Somehow out of that privacy and hiddenness comes moral conscience. But precisely here the link is not clear.

In this sense, I find a tension – possibly even a contradiction – in the book. In the phenomenology of rescue at issue here, the argument is that what these moral persons did is to recognize the individual need and act on that demand, while fearful for their own lives. That it was not a moment of thoughtless heroism is clear from the fact that some of the rescuers sheltered Jews for years. It is true that they operated outside the context of conventional morality and showed therefore that morality is by no means the same as convention, doing what is expected of one in the society or whatever. But, at the same time, many of the rescuers (in the context of Nazi Germany) were, as Mensch admits, perfectly ordinary people, educated within the standard moral context of the culture in Europe at the time (perhaps formed at school, in their religious education, and so on). The difference appears to be that those who acted as rescuers actually took their moral duties seriously, had an insight into what was morally right and wrong. How can some people have that and others not? I am not convinced that Mensch has given us an answer to that basic puzzle. In fact, much of Mensch's argument, and his original contribution in the book, is about establishing a new context (in opposition to the specficially modern conception of the self) for understanding the nature of this moral self at work. This is very difficult, especially as he recognizes that context is always a set of limitations as well as possibilities. The imperative of ethics, for Mensch, is to provide places where morality can operate, to provide places of shelter and rescue. We can certainly agree with that.

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Notes

- 1 Werner Marx, *Towards a Phenomenological Ethics*, trans. Stefaan Heyvaert, with a Foreword by Tom Nenon (Albany: SUNY Press, 1992). Marx maintains that we have to be shocked out of our selfish isolation.
- 2 Robert Sokolowski, 'What is Moral Action?', *The New Scholasticism*, 63 (1989), pp. 18–37.
- 3 See John J. Drummond and Lester Embree (eds) *Phenomenological Approaches to Moral Philosophy* (Dordrecht: Kluwer Academic Publishers, 2002).
- 4 Mensch says that he is drawing on Darwin more than Heidegger (p. 196 n. 2).
- 5 Frank Farley calls them 'timeless' heroes as opposed to 'situational' heroes.
- 6 Cited in Christine Toomey, 'Would You Be a Hero?', *Sunday Times Magazine* (London), 3 October 2004, pp. 28–30.
- 7 See the report in *Pakistan Today* (<http://www.paktoday.com/wall3.htm>tember 2004) by Nicholas D. Kristof, 'Sentenced to Be Raped', in the *New York Times*, Op-Ed column, 29th September 2004, and the Human Rights Watch 'Letter to President Pervez Musharraf' of 12 July 2002 (<http://www.hrw.org/press/2002/07/pak0712-ltr.htm>).

ETHICS AND SELFHOOD

During a Mastoi tribal council meeting on June 22 2002, four men of the council raped Mukhtaran Bibi. The rape, which was publicly witnessed by a large number of villagers, was intended as punishment for the conduct of her 11-year old younger brother who had been seen in the company of an unchaperoned woman from the Mastoi tribe. Members of the tribe abducted the brother, Abdul Shaqoor, and repeatedly sodomised him. Police negotiated his release. The woman was forced to walk home naked after the rape. It was assumed she would be shamed into suicide. Instead she reported the rape.

See the summary report on the National Organization of Women website at <http://www.now.org/issues/global/070802outrage.html>. The report dated July 8 2002 reads:

A Pakistani tribal council recently ordered the gang rape of an 18-year-old girl as a punishment to her family after her younger brother was seen walking with a girl from a higher class. The rape occurred June 22 in the southern Punjab province, the *Associated Press* reported.

Two men suspected of committing the rape were arrested July 7; the remaining two are still at large. The Mastoi tribe claimed their honor was violated when the victim's 11-year-old brother was seen walking unescorted with a Mastoi girl in a deserted part of the village. The victim and her brother are members of the lower-class Gujar tribe.

The Mastoi tribe called a council meeting and ordered that the boy's sister be gang-raped to avenge the tribe's honor. She was taken to a hut and brutalized while hundreds of Mastois stood outside laughing and cheering, according to the victim.