

Featured Article

Deconstruction and Nothingness: Deliberation, Daoism, and Derrida on Decision

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Abstract: This article traces a connection between the Daoist conception of nothingness and democratic deliberation by way of Derrida's deconstructive analysis of decision. Analysis of the aporia(s) at the heart of decision is a recurrent feature of Derrida's later work and, I argue, this highlights the function of nothingness in the act of decision. After identifying convergences between Derridean deconstruction and the *Daodejing* relating to the constitutive role of nothingness in material and immaterial things, I argue that it is only because of the nothingness between reasons and a decision that there really is "a decision." This nothingness as the heart of any decision is further compounded by the "ordeal" that Derrida describes in relation to decisions that aspire to be just or responsible to the other. Finally, I argue that Derrida's analysis of decision suggests a possible way to spell out the connection between nothingness and the ethics of difference as presented in the *Zhuangzi*. Awareness of the primary and secondary nothingness involved in decision reminds us that there is no ground for "good conscience" with regard to any decision that has been taken and that there is always more to be done.

Keywords: Derrida, Daoism, deconstruction, democratic deliberation

This article traces a connecting thread between the idea of nothingness and democratic deliberation by way of Derrida's deconstructive analysis of decision.¹ The interest of the analysis of decision in this

¹ I am grateful to Jun-Hyeok Kwak, Ellen Zhang, and other participants in the "Nothingness in Deliberation" conference, who responded to an earlier draft of this chapter, and to Lasse Thomassen for his helpful comments on a written version. I am also indebted to Pei Ting

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context is clear since the idea of deliberative democracy rests on the claim that collective decisions can be arrived at by a process of reasoned deliberation between free and equal participants. Reasoned deliberation in turn rests on the idea that the force of argument should be the sole determinant of individual and collective views. It follows that deliberation is genuine only if participants can change their views as a result of reasoned argument. In short, the whole point of deliberative democracy turns on the possibility of decision. For Rawls, the possibility of changing one's political opinions as a result of discussion with others is the distinguishing feature of deliberation. In "The Idea of Public Reason Revisited" he suggests that this understanding of deliberation is definitive for deliberative democracy: in exchanging views and debating the reasons supporting their views on public political questions, citizens "suppose that their political opinions may be revised by discussion with other citizens; and therefore these opinions are not simply a fixed outcome of their existing private or non-political interests."² Josh Cohen similarly focuses on the distinctive character of the outcome in suggesting that deliberation, "generically understood, is about weighing the reasons relevant to a decision with a view to making a decision on the basis of that weighing."³

In the third section of this paper, I relate the concept and ideal of deliberation in contemporary political philosophy to Derrida's analysis of decision. His later work, sometimes referred to as a phase of "affirmative" deconstruction, analyzes a number of ethical and political concepts, including justice, responsibility, hospitality, forgiveness, friendship, democracy, sovereignty, and decision. A common feature of these analyses is the manner in which they demonstrate the aporetic structure of the concept in question. One of the first examples of this kind of analysis occurs in "Force of Law," delivered at a symposium in 1989, where Derrida discusses a number of issues relating to the concept of law and its relation to justice. In the course of this discussion, he elaborates three "privileged sites" of deconstruction involved in the idea of a just decision: the aporia in relation to the application of principles or rules to particular cases, the aporia in relation to the moment or the event of decision, and the aporia in relation to the urgency or

and Chen Cuiting for a wonderful reading group in which we discussed *Daodejing* and *Zhuangzhi*.

² John Rawls, "The Idea of Public Reason Revisited," in *Political Liberalism Expanded Edition* (New York: Columbia University Press, 2005), 448.

³ Josh Cohen, "Reflections on Deliberative Democracy," in *Contemporary Debates in Political Philosophy*, ed. by Thomas Christiano and John Christman (West Sussex: Wiley Blackwell, 2009), 249.

immediacy of decision.⁴ In *The Gift of Death* he undertakes a related analysis of the aporetic character of Abraham's decision to sacrifice his son and the manner in which this was both a responsible and an irresponsible decision:

Abraham's decision is absolutely responsible because it answers for itself before the absolute other. Paradoxically it is also irresponsible because it is guided neither by reason nor by an ethics justifiable before men or before the law of some universal tribunal. Everything points to the fact that one is unable to be responsible at the same time before the other and before others, before the others of the other.⁵

In foregrounding the problem of being responsible before, or doing justice to, a particular other while at same time being responsible before, or doing justice to, others in general, Derrida touches on a problem that is central to the idea of deliberative democracy given a diversity of reasonable comprehensive points of view: how to do justice to the views of each individual citizen while at the same time doing justice to all. He poses this problem in relation to acts of decision. Accordingly, in the second part of this chapter, I will argue that his aporetic analysis highlights the function of nothingness in the act of decision. I begin in the first part below by identifying some points of convergence between Derridean deconstruction and the *Daodejing* in relation to the constitutive role of nothingness in material and immaterial things. The point of mentioning such parallels between Derridean and Daoist ideas is not to suggest any strict doctrinal consistency but simply to establish the existence of a zone of indiscernibility or overlap between them. The existence of this zone is further attested by the number of comparative essays that attempt to establish connections between deconstruction and Daoism.⁶

⁴ See Jacques Derrida, "Force of Law: The 'Mystical Foundation of Authority,'" trans. by Mary Quaintance, in *Deconstruction and the Possibility of Justice*, ed. by Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson (New York: Routledge, 1992), 22-29.

⁵ Jacques Derrida, *The Gift of Death*, trans. by David Wills (Chicago: University of Chicago Press, 1995), 77.

⁶ Shepherd and Burik discuss a number of earlier articles published during the 1980s and 1990s, while also making their own contributions to this literature. See Robert J. Shepherd, "Perpetual Unease or Being at Ease? \- \- Derrida, Daoism and the 'Metaphysics of Presence,'" in *Philosophy East and West*, 57:2 (2007), 227-243; Steven Burik, *The End of Comparative Philosophy and the Task of Comparative Thinking: Heidegger, Derrida and Daoism* (New York: State University of New York Press, 2009); Steven Burik, "Thinking on the Edge: Heidegger, Derrida and the Daoist Gateway (MEN 𠄎)," in *Philosophy East and West*, 60:4 (2010), 499-516; Steven Burik, "Derrida and Comparative Philosophy," in *Comparative and Continental Philosophy* 6:2 (2014),

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Deconstruction and Nothingness

Derrida has long been attentive to the role of nothingness in the constitution of language. In the course of his critical analysis of Saussure's insistence on the primacy of spoken over written language in *Of Grammatology*, he draws attention to Saussure's "thesis of difference as the source of linguistic value."⁷ According to Saussure, it is not the "phonic substance" of particular sounds that allows them to function as elements of a language but rather the systematic differences between them. Derrida cites the following remark from *A Course in General Linguistics*:

It is impossible for sound alone, a material element, to belong to language. It is only a secondary thing, substance to be put to use. All our conventional values have the characteristic of not being confused with the tangible element which supports them ... The linguistic signifier ... is not [in essence] phonic but incorporeal—constituted not by its material substance but the differences that separate its sound—image from all others.⁸

Derrida comments that Saussure's thesis that difference is the source of linguistic value contradicts the claim he makes elsewhere about the essentially phonic nature of language, since by definition "difference is never in itself a sensible plenitude."⁹ In effect, the differences in question here are the immaterial differences of sound quality and the spatial differences between graphic marks that enable them to function as signifiers. Derrida refers to these as the "spaces" between spoken sounds or written marks, in a metaphoric sense of the term. These spaces are what constitute the sounds or marks as elements of a system of signification. They are a material instantiation of what he calls "arché-writing" or "writing in general." Metaphor notwithstanding, these immaterial differences that are constitutive

<<https://doi.org/10.1179/1757063814Z.00000000037>>; Steven Burik, "Derrida and Asian Thought," in *Comparative and Continental Philosophy*, 12:1 (2020); Steven Burik, "Tracing Dao: A Comparison of Dao 道 in the Daoist Classics and Derridean 'Trace,'" in *Comparative and Continental Philosophy*, 12:1 (2020), 53-65, <<https://doi.org/10.1080/17570638.2020.1710032>>. See also David Chai, "The Apophatic Trace of Derrida and Zhuangzi," in *Contemporary Debates in Negative Theology and Philosophy*, ed. by Nahum Brown and J. A. Simmons (Cham: Palgrave Macmillan/Springer, 2017).

⁷ Jacques Derrida, *Of Grammatology*, corrected ed., trans. by Gayatri Chakravorty Spivak (Baltimore: The Johns Hopkins University Press, 1998), 52.

⁸ *Ibid.*, 53.

⁹ *Ibid.*

of all forms of signification recall the thesis of Chapter 11 of *Daodejing* regarding the nothingness in everyday objects and experience:

The thirty spokes converge at one hub, But the utility of the cart is a function of the nothingness (*wu*) inside the hub. We throw clay to shape a pot, But the utility of the clay pot is a function of the nothingness inside it. We bore out doors and windows to make a dwelling, But the utility of the dwelling is a function of the nothingness inside it. Thus, it might be something (*you*) that provides the value, [benefit] But it is nothing that provides the utility.¹⁰

Commentators differ over the precise meaning of *wu* in this passage and in the Daoist classics more generally. I do not presume to argue here for the correct interpretation, but only to draw attention to some features of nothingness that are relevant to the comparison with Derrida. The first of these is the idea of formlessness. JeeLoo Liu argues against a prevalent interpretation of the *Daodejing* as suggesting that the world emerged out of absolute nothingness and that it should be read as referring to an initial state of formlessness. She argues that the cosmology implicit in the text presupposes that “qi produces all things” and that the formless primordial state of qi is what the *Daodejing* refers to when it says in Chapter 40 that something arises out of nothing.¹¹ More generally, she argues that the conception of nothing in the *Daodejing* derives from the notion of formlessness (*wu xing*) and that, rather than claiming that things emerged from absolute nothingness, we should take it to be claiming that something formless preceded the myriad forms. She argues that the “theme of formlessness permeates the *Daodejing*’s philosophy” and that the notion of nothing (*wu*) should be understood as an initial cosmological state that is not absolute non-existence but the “‘absence’ of particularity and determination.”¹²

Liu’s reading accords with Ames and Hall’s translation of the key sentence in Chapter 40 as “the determinate arises from the indeterminate.”¹³

¹⁰ Roger T. Ames and David L. Hall, *Dao De Jing “Making this Life Significant”: A Philosophical Translation* (New York: Ballantine Books, 2003), 169. References are to the electronic edition.

¹¹ JeeLoo Liu, “Was There Something in Nothingness? The Debate on the Primordial State between Daoism and Neo-Confucianism,” in *Nothingness in Asian Philosophy*, ed. by Douglas L. Berger and JeeLoo Liu (New York: Routledge, 2014), 183.

¹² *Ibid.*, 184.

¹³ Ames and Hall, *Dao De Jing “Making this Life Significant,”* 253.

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It also accords with their suggestion in commenting on Chapter 11 that here, as in earlier chapters, we witness a “fascination with the correlative relationship between the indeterminate and the determinate aspects of experience—between a productive emptiness and the phenomenal world that emerges from it.”¹⁴ They propose a non-ontological reading of the relation between nothing and something whereby *you* and *wu* are not ontological categories but rather “the interdependent explanatory categories of ‘something’ and ‘nothing,’ of presence and absence.”¹⁵

Douglas L. Berger similarly argues for a deflationary and non-ontological reading of the role of nothingness in our everyday engagements with things by comparing the interpretations of Chapter 11 of the *Daodejing* proposed by Wang Bi (226–249 CE) and Zhong Hui (225–264 CE). Whereas Wang Bi takes nothing to be the sole source of the usefulness of things in contrast to the “something” or material that determines their benefit, Zhong Hui takes nothing and something to be interrelated in the constitution of things and both to be sources of the benefit and utility of things. Berger relates this difference to a further difference in Wang Bi’s and Zhong Hui’s respective approaches to this chapter. On one hand, Wang Bi starts from the cosmological primacy of *wu*, by which he understands nothing to be “the formless and nameless source of the material world.”¹⁶ Zhong Hui, on the other hand, presents the relationship between something and nothing, or the matter and empty spaces in a thing, not as a matter of “ultimate generation” but as one of “mutual dependence in the production of both benefit and use.”¹⁷ Berger argues that Zhong Hui’s relational understanding of nothing makes greater sense of Chapter 11 than Wang Bi’s more foundational approach.

More significant for the comparison with Derrida is his identification of a common feature of their account of nothingness, namely, that they share the view that our everyday experience of nothingness involves “the spaces that are built into things in ways that make them useful.”¹⁸ For both, it is how spaces are built into things that makes them functional objects capable of serving a human purpose. For both, too, it is significant that the examples in Chapter 11 are “products of human intention and design, and therefore demonstrate how any virtuously plied art appropriates ‘nothingness’ very

¹⁴ *Ibid.*, 170.

¹⁵ *Ibid.*

¹⁶ Douglas L. Berger, “The Relation of Nothing and Something: Two Classical Chinese Readings of *Daodejing* 11,” in *Nothingness in Asian Philosophy*, ed. by Douglas L. Berger and JeeLoo Liu (New York: Routledge, 2014), 171.

¹⁷ *Ibid.*, 172.

¹⁸ *Ibid.*, 176.

directly and concretely into the things that are meant to fulfill human ends.”¹⁹ In depicting space and spatiality as a manifestation of nothingness, they provide an influential formulation that resonates in the history of East Asian thought well beyond the Daoist tradition and that “lays the groundwork for many different ways in which we may understand ‘nothingness’ as cosmologically and even practically significant.”²⁰

The examples discussed in Chapter 11 of the *Daodejing* concern only the relation between nothingness and the matter of the physical objects. Derrida addresses the more complex case of the nothingness involved in non-physical elements of everyday experience such as language. However, the import of his insistence on the role of differences parallels the argument of the *Daodejing*: it is only by virtue of these “nothings” that signs and language can serve their intended purposes. In a further parallel with the identification of nothingness and spatiality in the interpretations of Wang Bi and Zhong Hui, Derrida also draws attention to the “spacing” that is constitutive of the signs or marks of any system of signification. Any such system can be considered as a formal play of differences. Whether spoken or written, the basic elements of the system can only function as such because of the implicit relation to other elements. As a result, any particular element will be defined by the “traces” of other elements. This implicit relation to other signifying elements in both its spatial and temporal forms is what Derrida calls “*différence*,” defined as “the systematic play of differences, of the traces of differences, of the *spacing* by means of which elements are related to each other.”²¹

He elaborates on this notion of spacing in comments in “Signature Event Context” about the “force of rupture” characteristic of any written text.²² This refers to the fact that a fragment of text is always intelligible when detached from the context in which it was composed. The essential iterability of signs, text, or writing means that “a written syntagma can always be detached from the chain in which it is inserted or given without causing it to lose all possibility of functioning.”²³ Derrida writes:

This force of rupture is tied to the spacing [*espacement*] that constitutes the written sign: spacing which separates it from other elements of the internal contextual chain (the always open possibility of its

¹⁹ *Ibid.*, 179.

²⁰ *Ibid.*, 176.

²¹ Jacques Derrida, *Positions*, trans. by Alan Bass (Chicago: Chicago University Press, 1981), 27.

²² Jacques Derrida, *Limited Inc* (Evanston: Northwestern University Press, 1988), 1–23.

²³ *Ibid.*, 9.

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disengagement and graft), but also from all forms of present reference (whether past or future in the modified form of the present that is past or to come), objective or subjective. This spacing is not the simple negativity of a lacuna but rather the emergence of the mark.²⁴

Here, as in other places, Derrida makes it clear that “spacing” is not confined to the written sign but is a feature of all language, including spoken language, and ultimately of experience as such in so far as “there is no experience consisting of *pure* presence but only chains of differential marks.”²⁵ This is an entirely abstract concept of “spacing” that encompasses both the difference between one physical mark and another and the difference between one temporal moment and those that precede or follow it. To the extent that this spacing, *différance*, or writing-in-general amounts to an indeterminate realm out of which experience and language emerge, it can be understood in a manner that parallels Liu’s interpretation of the Daoist concept of nothingness as a primordial formlessness rather than absolute nothingness.

One of the most developed attempts to draw parallels between Daoism and deconstruction is that of Steven Burik, which argues for an affinity between Derridean deconstruction and what Burik calls a non-metaphysical interpretation of Daoism by which he means an approach that does not take *Dao* to be a fundamental cosmological principle along the lines suggested by Wang Bi’s interpretation.²⁶ Following his Derridean interpretation of *Dao*, the point of drawing attention to the emptiness or the spaces in between the elements of any system of signification is to point to the open-endedness of such systems and to the permanent impossibility of closure. Burik follows the “process ontology” interpretation of *Dao* defended by Ames and Hall in his three-way comparison of Heidegger, Derrida, and Daoism in relation to their views of language, Being, and the most appropriate relationship to others and to the world. He defends both Derrida and Daoism against the charge of ethico-political quietism or conservatism; however, he does not say much about the positive import of their outlooks. In particular, he does not discuss Derrida’s later more overtly political essays or his analysis of decision. In order to say something about the role of nothing in deliberation, we need to turn to Derrida’s remarks about the aporetic character of decision.

²⁴ *Ibid.*, 9–10.

²⁵ *Ibid.*, 10.

²⁶ See Burik, *The End of Comparative Philosophy and the Task of Comparative Thinking*.

Derrida on Decision

In a 1993 interview, Derrida endorses the suggestion that his work includes a philosophy of decision and related concepts such as responsibility, freedom, and justice.²⁷ This philosophy is grounded in a rigorous analysis of the concept of decision, which has been described as a key to his contribution to political philosophy.²⁸ There are at least three distinct levels in Derrida's analysis of decision: first, the nature of decision as such; second, the nature of responsible or, in legal contexts, just decisions; third, what Derrida refers to as the "experience" of decision. These levels are nested in the sense that all of them involve decision as such, but only the last two involve responsible or just decision where that implies responsibility towards an other or doing justice to a particular other. These last two levels are especially relevant to the case of political deliberation, where the requirements of democratic deliberation impose constraints on the acceptable forms of relation to various others.

At the first level, a decision is different from the conclusion of a formal argument or calculation. It does not follow from the rule or reasons invoked in support of a conclusion in the way that the outcome of a calculation is determined by the rules of arithmetic and logic. Determination of this kind by the application of mathematical or logical rules produces an outcome but not something that we would recognize as the outcome of a decision. In the case of a legal decision, there can be no rule that determines the just application of the rules to the circumstances of a particular case. If there were, then the threat of regress arises. Instead, Derrida suggests, a legal decision "must also involve 'fresh judgment,' it must proceed as if without a rule or as if the rule were reinvented in the particular case."²⁹ It follows that decision is irreducible to simple rule-following and that any decision involves a rupture or break with the considerations leading up to it.³⁰ In this sense, we can say that there is a moment of nothingness at the heart of every decision, properly so-called. Moreover, by analogy with the nothing in a material object that is the condition of its utility, we can say that it is only because of

²⁷ Jacques Derrida, *Negotiations: Interventions and Interviews, 1971–2001*, ed. and trans. by Elizabeth Rottenberg (Stanford: Stanford University Press, 2002), 215–256.

²⁸ See William W. Sokoloff, "Between Justice and Legality: Derrida on Decision," in *Political Research Quarterly*, 58:2 (2005), 341–352, <<https://doi.org/10.1177/106591290505800213>>.

²⁹ Derrida, "Force of Law," 23.

³⁰ In the discussion of Abraham's decision in *The Gift of Death* cited earlier, Derrida writes that the "knight of faith" decides "but his absolute decision is neither guided nor controlled by knowledge. Such, in fact, is the paradoxical condition of every decision: it cannot be deduced from a form of knowledge of which it would simply be the effect, conclusion, or explicitation. It structurally breaches knowledge and is thus destined to nonmanifestation; a decision is, in the end, always secret" (Derrida, *Gift of Death*, 77).

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the nothingness or gap between reasons and a decision that it functions as a decision.

Decisions can of course be arbitrary, capricious, or otherwise inappropriate. Derrida is not concerned with such decisions but rather with decisions that are appropriate in the circumstances, with decisions that are responsible or, in the legal case, just. For this to be the case, a decision must be in some way responsive to reasons advanced on behalf of a given proposition. In the case where there are compelling reasons for and against a given course of action, the parties involved may decide to flip a coin to decide which way to go. But flipping a coin is not deciding. It is to resort to an arbitrary procedure in the place of a decision. A decision, as opposed to a mere outcome of such a procedure, cannot be a simple matter of following a rule; at the same time, however, if it is a responsible or just decision, it must stand in some relation to existing rules. Together, these requirements on responsible or just decision lead to the aporia that Derrida summarizes in relation to legal decision-making as follows:

for a decision to be just and responsible, it must, in its proper moment if there is one, be both regulated and without regulation: it must conserve the law and also destroy or suspend it enough to have to reinvent it in each case, rejustify it, at least reinvent it in the reaffirmation and the new and free confirmation of its principle.³¹

The second level of Derrida's analysis relies on the fact that, as an action of a certain kind, every decision is an event. As such, it displays the same peculiar temporality characteristic of events in general. This is invoked in Derrida's parenthetical comment in the passage above referring to the "proper moment if there is one" of decision. His point is precisely that there is no proper moment of decision, or rather that the moment of decision is an evanescent point that cannot be identified within the linear temporal order of experience. Joseph Hillis Miller illustrates the point by reference to the portrayal of Isabelle Archer's decision to marry in Henry James's *The Portrait of a Lady*: "The reader sees Isabel before she has decided. The reader sees her after she has decided. James does not show her actual instants of decision."³² He does not show the instant of decision because it is unrepresentable. Like the instant at which any event takes place, it cannot be pinpointed in the linear order of time but appears always as that which is about to take place

³¹ Derrida, "Force of Law," 23.

³² Joseph Hillis Miller, *For Derrida* (New York: Fordham University Press, 2009), 94–95.

or that which has already taken place. Alex Thomson suggests that Derrida may be understood as claiming that “the ‘instant of decision’ has no ontological status. It is not of the order of being present.”³³ In other words, the moment of decision is of the order of being not-present. Perhaps rather than describing this as a lack of ontological status, we should say that it has the ontological status of nothingness.

The third level of Derrida’s analysis of the aporia of decision relies on the fact that a decision involves an experience undergone by the one deciding, whether this is an individual or a collective agent. Steven Gormley draws attention to this often-overlooked feature of Derrida’s analyses of decision. He notes that the experience, which Derrida always refers to as an experience of undecidability or the undecidable, relates specifically to just or responsible decisions. He argues that this experience is produced by the fact that decisions of this kind involve a relation to others as other, that is in their specificity as particular others:

for Derrida, a just decision cannot fall from a pre-existing rule or norm or be the consequence of some determinate knowledge. And the reason for this is because it is a response to the singularity of the other, a singularity that interrupts any calculating framework.³⁴

This makes the experience of undecidability of particular importance in the context of political deliberation, which is always deliberation with particular others who have their own views on the issues at hand. Two features of Derrida’s characterization of the experience of the undecidable are noteworthy in this context: first, the fact that it is an experience that arises in response to the singularity of the other, and second, the fact that it is a certain kind of experience that he regularly characterizes as an ordeal. These two features are related. It is because the experience of the undecidable takes place in the attempt to do justice to a particular other that it is an ordeal.

It is important to note that the experience of the undecidable involves more than just the fact that any decision involves a break with the order of reasons or, in Derrida’s terms, the calculable. The rupture with knowledge or reasons that tell us how to act in a given situation is part of any just or responsible decision, but as Gormley comments “Undecidability without the ordeal gives us only half of the story.”³⁵ The other half of the story is that, in

³³ Alex Thomson, *Deconstruction and Democracy* (London: Continuum, 2005), 165.

³⁴ Steven Gormley, *Deliberative Theory and Deconstruction: A Democratic Venture* (Edinburgh: Edinburgh University Press, 2020), 193.

³⁵ *Ibid.*, 176.

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the case of responsible or just decisions, the interval or break with reasons or calculability that is a necessary feature of any decision is bound up with the desire to do justice to a particular circumstance or a particular other.

Derrida takes justice in particular cases to be subject to two conflicting demands: on the one hand, the requirement of fairness and the idea that the law should apply in the same way to all; on the other hand, the requirement of doing justice to the other in their particularity and their specific otherness. The former is the standard requirement of justice in the light of Kantian universality. The latter requirement is drawn from Levinas, who Derrida follows in relation to the idea of an ethical obligation or responsibility for the fate of a particular Other.³⁶ Together, they form an aporia that is constitutive of the demand for justice:

How are we to reconcile the act of justice that must always concern singularity, individuals, irreplaceable groups and lives, the other or myself *as* other, in a unique situation, with rule, norm, value or the imperative of justice which necessarily have a general form, even if this generality prescribes a singular application in each case?³⁷

For Derrida, this aporia is not a source of indecision or paralysis, but rather a wellspring for the increase or improvement of justice. In many cases, it is motivated by an experience of insufficient justice and a demand “for an increase in or supplement to justice.”³⁸ However, the same aporia that underpins the possibility of justice in a particular case also underpins its impossibility. For this reason, the responsible or just decision involves “an anxiety-ridden moment of suspense” because of the uncertainty about what is required to meet the demands of a particular case or a particular other. There can be no certainty and no grounds for “good conscience” about whether the demand for justice has been met. For this reason,

³⁶ Miriam Bankovsky provides a helpful summary of Derrida’s debt towards and differences from Levinas, arguing that Derrida goes beyond Levinas’s insistence on the impossible and asymmetrical demand of justice on the part of the Other in arguing for the necessity of state-based justice grounded in the idea of equal treatment: “The nonnegotiable (that is, justice’s responsibility for the unique Other and for all Others as equals) must be negotiated for the sake of ethics itself. Moreover, Derrida also defends the view that there are clearly better and worse negotiations” (Miriam Bankovsky, *Perfecting Justice in Rawls, Habermas and Honneth: A Deconstructive Perspective* [London: Continuum, 2012], 11).

³⁷ Derrida, “Force of Law,” 17.

³⁸ *Ibid.*, 20.

The undecidable remains caught, lodged, at least as a ghost—but an essential ghost—in every decision, in every event of decision. Its ghostliness deconstructs from within any assurance of presence, any certitude or any supposed criteriology that would assure us of the justness of a decision, in truth of the very event of decision.³⁹

The experience of the undecidable is thus not simply a matter of paralysis in the face of conflicting requirements—to be both regulated and unregulated—nor is it an oscillation or tension between different possible outcomes. It encompasses the obligation on the part of the subject to “give itself up to the impossible decision while taking account of law and rules.”⁴⁰ As such, it is an ordeal in the juridical sense of a trial by ordeal, a matter of the “testing out of the undecidable (*l'épreuve de l'indécidable*); only in this testing can a decision come about (*advenir*).”⁴¹ None of this implies that decisions cannot be informed or that reasons cannot be given for the decision taken. On the contrary, Derrida insists that “a decision must be as lucid as possible. And yet, however lucid it is, as a decision, it must advance where it cannot see.”⁴²

A final dimension of the aporetic character of just or responsible decision emerges in relation to what Derrida calls “the urgency that obstructs the horizon of knowledge.” At issue here is his concern to distinguish this aporetic structure of decision from the familiar schemas of the regulative idea, the messianic promise, or “other horizons of the same type.”⁴³ The difference is that these are, precisely, horizons that are never attained. By contrast, a just or responsible decision is required immediately. It cannot be deferred indefinitely. It does not and cannot wait. In this sense, too, a just or responsible decision interrupts. It not only breaks with the knowledge of relevant rules and facts that must inform it but also interrupts the consideration or deliberation of these. In this sense, Derrida insists, citing Kierkegaard, that “the moment of decision, as such, always remains a finite moment of urgency and precipitation...The instant of decision is a madness.”⁴⁴ However, it remains a madness through which the individual or

³⁹ *Ibid.*, 24–25.

⁴⁰ *Ibid.*, 24.

⁴¹ Jacques Derrida, *Paper Machine*, trans. by Rachel Bowlby (Stanford: Stanford University Press, 2005), 154.

⁴² Derrida, *Negotiations*, 232.

⁴³ Derrida, “Force of Law,” 25.

⁴⁴ *Ibid.*, 26.

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collective subject of decision must pass, one that proceeds in “the night of non-knowledge and non-rule.”⁴⁵

Each of these levels or dimensions of the aporia of decision involves a rupture or break, whether with rules or principles, with the ordinary linear flow of time, with the order of knowledge or certainty or with the expectation that one can in a given situation do justice both to a particular other and to third parties, the others of that other. In each case, we can say that this rupture or break is an eruption of nothingness in the order of reasons, of time, or of orientation. Like the nothingness at the center of a wheel that enables it to function as a wheel, the nothingness at the heart of any decision is what makes it a decision rather than a mere outcome, an arbitrary act, or a further stage in the smooth progress towards a given horizon. However, the nothingness at the heart of any decision is further compounded by the experience of the “ordeal” of decision that Derrida describes in relation to decisions that aspire to be just or responsible to the other. Here, it is not simply a question of the rupture with reasons or calculations but of the indeterminacy in the face of the obligation to decide and to decide responsibly, to decide in the light of an appropriate response to the condition or the circumstances of the other. If the nothingness that separates a decision from its reasons is a primary nothingness at the heart of any decision, the nothingness at the heart of the ordeal of the undecidable is a secondary nothingness that is bound up with the attempt to do justice to the other. The formlessness that Derrida ascribes here to the experience of the ordeal of decision, “the night of non-knowledge and non-rule” as he describes it, recalls Liu’s understanding of the Daoist nothing, not as the absence of being but as the absence of determinacy and particularity.

Deliberation, Decision, and Nothingness

I noted at the outset that the idea of deliberation at the heart of conceptions of deliberative democracy relies on the concept of decision. Much of the discussion of deliberative democracy is concerned with the conditions under which collective deliberation can be democratic. There is nothing in the ideas of deliberation or decision that makes these intrinsically democratic: “an individual can make decisions deliberatively; a jury has a responsibility to deliberate; and a committee of oligarchs can deliberate.”⁴⁶ In order for collective decisions to be legitimate from a democratic point of view, they must follow a deliberative procedure that meets certain conditions. These include the requirement that parties to the deliberation must be equal, their

⁴⁵ *Ibid.*

⁴⁶ Cohen, “Reflections on Deliberative Democracy,” 249.

contributions to deliberation must be reasoned, and the deliberation must be unconstrained or free in two senses: first, “the participants regard themselves as bound only by the results of their deliberation” and second, “the participants suppose that they can act from the results, taking the fact that a certain decision is arrived at through their deliberation as a sufficient reason for complying with it.”⁴⁷ Such a democratic deliberative procedure thus relies on the possibility of collective decisions in favor of a particular policy or course of action and individual decisions to act on the basis of such a collective decision.

For Cohen and Derrida, the act of decision is distinct from that of weighing reasons. For Derrida, as we saw in the last section, while decision requires that there be a relation to reasons, without which the result would be merely random, the relation cannot be one of determination. The irreducible gap between reasons and the content of the decision is what makes it a decision rather than a mere calculation or outcome of following a rule. In other words, for decision to be decision, it requires the nothingness that separates weighing reasons with a view to a decision from actually making a decision. This primary nothingness that is bound up with decision relates to the monological instance of decision, that is, to decisions by a single agent, whether individual or collective. The secondary nothingness that is bound up with the experience or ordeal of the undecidable is more directly related to the polylogical instance that is at issue in democratic deliberation. Whereas the primary nothingness relates to the bare fact of decision, as it were, the secondary nothingness relates to a moral or political dimension of decision, in particular to the difficulty of negotiating the aporia involved in decisions that are just, fair, or otherwise appropriate.

Derrida does not directly discuss the mechanics of collective political deliberation. He does not discuss the kinds of linguistic interaction, or the kinds of speech act, that belong to deliberation as opposed to other kinds of confrontation between different or opposing views. He does, throughout his work, challenge the existing codes that regulate academic discourse by employing a broader range of communicative acts and styles of discourse. Gormley aligns this aspect of his work with James Bohman’s recommendation to “pluralise public reason” in suggesting that Derrida seeks to develop

⁴⁷ Josh Cohen, “Deliberation and Democratic Legitimacy,” in *Deliberative Democracy: Essays on Reason and Politics*, ed. by James Bohman and William Rehg (Cambridge: MIT Press, 1997), 74. First published in *The Good Polity: Normative Analysis of the State*, ed. by Alan Hamlin and Phillip Pettit (New York: Blackwell, 1989), 17–34. References are to the 1997 edition.

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a more expansive notion of argumentation, such that the other is not simply included formally, but effectively. By seeking to pluralise public reason in this way, Derridean deconstruction seeks forms of inclusion in which the other has an effective voice, such that they can raise new issues and challenge current understandings. That is to say, Derridean deconstruction seeks to do justice to the other in their otherness.⁴⁸

There is, however, an important sense in which Derrida's analysis of the experience of the undecidable bears directly on the practice of democratic deliberation. This relates to the ethos of democratic deliberation and its objective. Rawls and others accept that deliberation in democratic societies involves linguistic interaction between parties with radically different, even incommensurable, comprehensive moral, political, or religious views. It is for this reason that Rawls proposes the ideal of public reason as a mechanism that enables partisans of different comprehensive views to talk to one another in a common language. The Rawlsian ideal of public reason does not guarantee agreement. The burdens of judgment in particular cases will ensure that there are always grounds for reasonable disagreement on some issues. All that the ideal of public reason demands is that citizens speak to one another in terms that they can reasonably suppose others will understand and appreciate. In this sense, the bar for what counts as democratic deliberation is set relatively low.

By contrast, Derrida's analysis of the experience of the undecidable appeals to a more demanding standard for the linguistic and other forms of interaction between citizens. This experience arises in response to the demand to do justice to, or be responsible to, the other. This involves more than simply addressing the other in terms that they can reasonably be expected to understand. It requires citizens to address the other as other, that is in the specificity of their circumstance and their demands. In the democratic context of a plurality of others with radically different points of view, this is a demand that can never be fully satisfied. Like the demand to be responsible to the other, or the demand to do justice to the other, this is an impossible demand, but one in which the "im-possibility" refers to "that experience through which the possibility of doing justice to the other is given" rather than an absolute impossibility of doing more or doing better.⁴⁹

In the terms suggested above, we can think of this aporetic experience as a secondary nothingness at the heart of Derrida's more demanding ethos

⁴⁸ Gormley, *Deliberative Theory and Deconstruction*, 125.

⁴⁹ *Ibid.*, 257.

of democratic responsibility to others. Brought about by the desire, injunction, or obligation to do justice to the other, this secondary nothingness involves the indeterminate or formless character of the experience of trying to respond to this obligation. Although he does not use the term, we can say that, for Derrida, the space of political deliberation involves a nothingness of this kind. As we have already seen, the experience of this nothingness is not entirely negative. Awareness of the unavoidable nothingness embedded in our deliberation with and relation to others is a condition of new forms of justice, hospitality, forgiveness, or indeed democracy. Unconditional justice to the other is an ideal that can never be fulfilled, but the conditional forms of justice can always be made more just, in the same way that conditional forms of hospitality or forgiveness can always be transformed with reference to the unconditional idea of hospitality or forgiveness, or that existing forms of democracy might be modified in the light of an unspecified “democracy-to-come.” The experience of attempting to negotiate this space between the conditional and unconditional, between what is and what is to come, is the experience or the ordeal of the undecidable.

The interest of Derrida’s analysis of decision for democratic deliberation is clear, as are the points of connection between that analysis and Daoist notions of nothingness. It remains to elaborate further on the connection between nothingness and democratic deliberation. Yong Huang’s argument that the *Zhuangzi* provides support for an ethics of difference, in contrast to the ethics of commonality that dominates post-Kantian traditions of moral and political philosophy, provides a convenient way to do this. By “ethics of difference” he means a form of evaluation that makes the views of the patient, the one acted upon by another, the standard of rightness and wrongness. Derrida writes:

The ethics of difference requires [of] us that, when deliberating the rightness or wrongness of our actions affecting others, the relevant standard of the right and the wrong is not our standard but the standard of those who will be affected by our actions.⁵⁰

He bases this normative standpoint on the dual emphasis in the *Zhuangzi* on the differences between forms of life and on the equality of things. It is a fact that eels like to live in damp places while humans like to live in dry places, but this difference does not imply the superiority of one preference over the other. Huang refers to three stories that all show, in

⁵⁰ Yong Huang, “The Ethics of Difference in the *Zhuangzi*,” in *Journal of the American Academy of Religion*, 78:1 (March 2010), 84.

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different circumstances, the danger of neglecting the specific nature of different life forms: the story of the treatment of the Emperor Hundun by the Emperors Shu and Hu (*Zhuangzi* 7), the story of Bo Le's treatment of his horses (*Zhuangzi* 9), and the story of the Marquis of Lu's care of a lost seabird (*Zhuangzi* 18). Each story describes a situation in which an agent treats an other in ways that the agent thinks appropriate, rather than in ways that accord with the nature of the patient. By contrast, Huang points to the injunction in *Zhuangzi* 11 to "to let the world be (*zai*) so that its nature will not be disturbed."⁵¹

The primary obstacle to treating things in accordance with their own nature is what the *Zhuangzi* refers to as "the opinionated mind" (*cheng xin*):

This opinionated mind is nothing but one's tendency to regard one's own standard of right and wrong as the universal standard, to which everything should conform.⁵²

Against this tendency, Huang argues that the *Zhuangzi* recommends getting rid of such preconceptions and treating all things in the light of their uniqueness. To achieve this is to have a mind like a bright or clean mirror that reflects things as they are, as opposed to a dusty mirror that projects onto things that do not belong to them. In the social circumstance in which different people have different opinions about what is right or wrong, Huang argues, the *Zhuangzi's* solution to endless and irresolvable disputes is that individuals should give up their pre-conceived opinions, "to brighten (*ming*) the mirror by wiping away the dust, so that the argument will be dissolved."⁵³ Huang refers to the passage on the fasting of the mind in *Zhuangzi* 4, according to which the result is

to let the mind become unoccupied with pre-conceived ideas so that the mind, just like water, can receive things as they are, without forcing any fixed shape on them.⁵⁴

Huang does not elaborate on the relation of this stance to Daoist nothingness. However, Derrida's analysis of decision suggests a possible way to spell out the connection between nothingness and the ethics of difference as presented in the *Zhuangzi*. Two points of comparison can be identified

⁵¹ *Ibid.*, 78.

⁵² *Ibid.*, 79.

⁵³ *Ibid.*, 80.

⁵⁴ *Ibid.*, 82.

here. A first point is to note the proximity between the relation of different disopinionated minds and what I referred to above as the secondary nothingness involved in decision. Huang's analysis is confined to the intellectual and moral virtue required in order to treat others in accordance with their nature rather than in ways deemed appropriate by the agent. He does not consider the context of deliberation between parties possessed of different opinions; if he had, the result might have resembled Derrida's account of the indeterminate, formless space in which decisions subject to conflicting requirements must be taken. At the risk of mixing metaphors, we can ask: What would be the relation between two or more mirrors cleaned of dust or pre-conceptions that might interfere with the reflection of the other? Would this not be an infinite series of reflections in which nothing determinate appears—in other words, a kind of nothingness?

A second point of comparison emerges if we suppose that the disopinionated mind does not mean that individuals should not have opinions, but rather that these should not be regarded as fixed or unchangeable and that individuals can decide to change their minds. This approximates more closely the circumstance of deliberation envisaged by democratic theorists. It also brings the *Zhuangzi's* criticism of the opinionated mind closer to Derrida's criticism of "good conscience." For Derrida, it is precisely because the experience of decision is an ordeal, an experience of the undecidable, that there is no basis for good conscience about any decision taken. As we noted above, deliberation with others introduces a secondary nothingness in addition to the primary nothingness involved in monological decision. On this basis, we can say that the one who decides in full awareness of the nothingness at the heart of the experience of undecidability relates to their reasons in the same way that the subject of the disopinionated mind stands towards their opinions. In both cases, deliberation with others is as likely to lead to changing one's mind as it is to changing the mind of the other.

However, democratic deliberation further complicates the situation to the extent that it embodies the impossible aspiration to do justice both to the particular other and to the others of that other; to the individual, and to all the other citizens. This implies a more complex relation to the other than the simple patient-oriented ethics of difference described by Huang that makes the view of the other the standard of rights and wrongness. It is in the effort to attain the impossible ideal that the agent undergoes what Derrida calls the ordeal of undecidability. The nothingness inherent in decision and in the ordeal of the undecidable does not function as a regulative principle. For Derrida, it is rather the injunction or obligation to do justice to the other that orients the weighing of reasons in favor of a given course of action. Nevertheless, the awareness of both the primary and secondary nothingness involved serves a positive function insofar as it makes the agent aware that

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there is no ground for “good conscience” with regard to any decision that has been taken and that there is always more to be done.

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