

Book Reviews

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Ethical Loneliness: The Injustice of Not Being Heard

By Jill Stauffer, New York: Columbia University Press, 2015. 240 pp. \$55.00 (cloth).
ISBN: 9780231171502

Ethical Loneliness is a timely book, particularly given the recent incursion of law and legalism into domains of political redress, transition, reconciliation, and “humanitarian” intervention. Western legal structures and cultures, Stauffer argues, are not altogether commensurable with these goals. The book offers a critique of liberal political theories and transitional justice by calling into question the kinds of monadic, autonomous, and “sovereign” subjects they typically imagine, and imagine themselves “rebuilding.” Here, western legality is unable to listen to its own failures. Recounting testimonies from “sites where the goal is political transition, reconciliation or forgiveness” – criminal tribunals, international courts, Holocaust archives, Native American dealings with U.S. legal proceedings, American prisons, and truth commissions from South Africa and Argentina – the reader’s sovereignty is rendered vulnerable, ethically assailed and hailed by these voices.

The book opens with a quotation by Jean Améry reflecting on his time in the Bergen-Belsen concentration camp: “The experience of persecution was, at the very bottom, that of extreme *loneliness*.” Much more than an economy of abandonment, loneliness here suggests a subject who is forsaken by humanity, banished from the homely economies of the *oikos* and disappeared as well from the *agora*, from the public sphere whose terms might secure for him some form of recognition. This is the experience suffered by persons subject to the violent crimes and dehumanizing conditions of countless political regimes, and who find themselves unable to tell their stories, to bear witness, in a manner that can be heard.

Such loneliness is not simply a lack of intimacy, an object-loss, as it is often described in psychology and psychoanalytic theory. As I read this book, I came to understand it rather as the loss of *that loss*, the loss of objectivity altogether, and the imprisonment of the self in a hollow subjectivity that no longer has world or language. And undoubtedly, loneliness must be sharply distinguished from mere aloneness or solitude, which for Hannah Arendt is a necessary condition for thinking and ethical life. In solitude, self and world remain intact. In loneliness, rather, the conditions of thought and life are rendered precarious, barren, deathly – but so too for us, in some small way, for we are those necessary others who are called to hear, and whose ethical failure to hear is the cost of a

subject's ethical loneliness. Bereft of self, world, and language, how might such a subject appear, voice a claim, and seek justice?

Stauffer refuses to yield to the pessimism of scholars who, like Giorgio Agamben, might understand in extreme loneliness the plight of *homo sacer*, a bare life marked by the political "inclusive-exclusion" derived from Schmitt's sovereign state of exception. Choosing instead to "change the subject," Agamben's name does not figure in Stauffer's text. "Sovereignty" is recast in personal terms, and critically, alongside our ineluctable dependence and interrelationality – troubling our presumptions of liberal autonomy, and thereby "changing" the subject not just discursively but in the very understanding of subjectivity itself. As Stauffer writes: "sovereignty always relies on others who acknowledge its worth and thus observe its boundaries. Dehumanization is, in part, the refusal of that response. Sovereignty is dependence" (16). To help elucidate this claim, her text draws on the philosophy of Emmanuel Levinas, in part, I believe, as a rejoinder to Agamben, and as a means by which to locate human interrelationality in a register that is both ethical and phenomenological. Through Levinasian concepts, Stauffer prizes open an ethical space between the political potencies of "inclusive-exclusion." It is the subject's exclusion, his or her loneliness and abandonment, that includes an ethical demand, and includes me as the free, if unwilling, addressee of that unbidden voice.

Loneliness is the result of socio-political and structural conditions that result in violent crimes and social abandonment. It is, then, the result of an ethical failure, an injustice, redoubled by our ethical failure to hear the testimony of suffering, in the victim's own terms – and to understand and to recognize the agony of another as potentially our own. It is a failure, then, of *ethos* – a failure to understand our subjectivity as necessarily intersubjective, interrelational, and dependent upon others. In this respect, *Ethical Loneliness* is also a critique of Jürgen Habermas's theory of communicative action, which presumes that language and speech are neutral means by which autonomous individuals negotiate and deliberate in the public sphere. As with Agamben, she does not mention Habermas by name, but his widespread influence in liberal juridico-political theory is surely in mind when she references "a theory of communication as transparency" (69). Communication, as Stauffer notes, is fragile, risky, bodily.

Stauffer demonstrates that hearing well depends on social and structural conditions that extend well beyond an individual's autonomy or sovereign sense of self, well beyond the language of legality and legalism. She contests the belief that criminal trials and truth commissions are cathartic or healing for survivors. In some cases, evidence suggests that they re-traumatize victims of human rights abuses and other violent crimes: official records hypostatize, at times, a cultural form of inter-generational trauma or "postmemory." Institutions, such as the International Commission for Human Rights and the International Criminal Court may be necessary in order to hear, but they are insufficient on their own, the "narrow legal concern" of law and legalism, culpability and punishment. I'm mindful, too, as I write this in the wake of the grand jury's verdict of "innocence" in the murder of Michael Brown, how U.S. institutions are also so often structurally complicit (a word she uses sparingly, judiciously) in dehumanizing social conditions and widespread abuse, such as systemic racism, and it is precisely this to which innumerable protesters have borne witness. These voices transcend the testimony of the dead, and speak in the name of countless others whose lives are a living death, a civil death,

abandoned to the vagaries of political power, police, and media. In Stauffer's terms, none of us are innocent: a devastating claim that is slowly and delicately evidenced across numerous scenes of social abandonment.

Citing the testimony of a Bosnian Muslim at the International Criminal Tribunal for the former Yugoslavia, for example, Stauffer then describes her own visceral experience of being seated in the audience gallery and hearing his words: "A neutral setting where all know their roles and easily maintain their separateness is transformed, bland space suddenly pulsing and claustrophobic" (88). Hearing demands a sort of face-to-face with the victim, listening to his story in his own words, and meeting these words with an excruciating openness – and to hear in these words an ethical claim, a shared loneliness, however fragile and incomplete, perhaps, but which "factual" court transcripts, media reports, and scholarly discourse analysis almost always fail to convey. It is to understand, too, what it means when courts, the media, and scholars have power over someone's story, to tell, transform, and submit it to what Eve Sedgwick calls a paranoid, rather than reparative, reading.

Stauffer argues instead for a "reparative retribution" based in ethical hearing, a compensation or "repayment" for the loss suffered, a gesture that would help rebuild world, self, and communication. It is a re/visionary task that cannot be accomplished alone, and must be singularly sensitive to the particularities of culture, history, political situation, etc. In the words of Améry, such a gesture would open the possibility for a reconciliation with time. This is not necessarily a reconciliation with persons, or a forgiveness of those who have perpetrated violent crimes (which may not be possible, as with Améry), but the possibility of living with the past, differently, in the present: to take on the present moment freely; even if that involves holding onto resentment.

Stauffer's voice is singular, her style disarmingly direct. The text studiously refuses disciplinary conventions and idioms in order to appeal to the widest interdisciplinary audience: scholars of law and legal studies, philosophers, rhetoricians, political theorists, the lay public; those concerned with human rights, law and transitional justice, political reconciliation, race and racism, ethics and forgiveness.

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Punishment and Inclusion: Race, Membership and the Limits of American Liberalism

By Andrew Dilts, New York: Fordham University Press, 2014, 324 pp. \$30.00 (paper).
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The stripping of voting rights for felons and ex-felons in the twenty-first century is the entry point for *Punishment and Inclusion*, Andrew Dilts' ambitious and powerful reframing of Anglo-American liberalism as constituted by practices of punishment. While recent reform efforts in various U.S. states have eliminated some of the most punitive, permanent vote stripping provisions, Dilts pushes his readers to avoid jumping to comfortable conclusions about the capacity of liberal punishment to easily shed its excesses. Punishment and citizenship, criminal law and voting law: in the twenty-first century