

Impossible Hearing

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In the penultimate chapter of *Der Prozeß*, shortly before the telling of the famous story-within-a-story that would elicit Derrida's *Préjugés*, the protagonist Josef K. is trying to sneak out of the Cathedral when a 'resonant, well-trained voice' calls out his name, the words too 'unambiguous and inescapable' to ignore.

K. started and stared at the ground before him. For the moment he was still free, he could continue on his way and vanish through one of the small, dark, wooden doors that faced him at no great distance. It would simply indicate that he had not understood the call, or that he had understood it and did not care. But if he were to turn round he would be caught, for that would amount to an admission that he had understood it very well, that he was really the person addressed, and that he was ready to obey. Had the priest called his name a second time K. would certainly have gone on, but since there was a persistent silence, though he stood waiting a long time, he could not help turning his head a little just to see what the priest was doing.¹

It is not far-fetched, I think, to imagine that Derrida is glossing this particular passage in the 1993–94 seminar on 'Questions de la responsabilité III: le témoignage' when, having explicitly in an earlier session cited Kafka's *Vor dem Gesetz* to illustrate the singularity of address that characterises the Heideggerian call of conscience, he probes exactly K's conundrum:

No counter-testimony is possible . . . If I oppose the call [*appel*], if I object to it, it is because I have already heard-understood [*entendu*] it, I have already found it, it has already found me. I can therefore only bear witness to it and for it, even at the moment when I would try to bear witness or argue against it.²

Noting the ‘absolute asymmetry’ and ‘authority without limit’, Derrida goes on to observe that if one both ‘cannot and must not reply, object, discuss, negotiate, advance counter-proposals or attempt compromises’ but ‘can only remain silent before this attestation’, this is not because the call of conscience is incontestable or speaks more loudly than any other voice. Rather, as he had already argued in *Préjugés* with reference to Heidegger, the law is inaccessible and inscrutable because it ‘calls in silence’.³ When it pro-vokes from its hiding place, the law says nothing [*se tait*], as if it were without history.⁴ It is, as Derrida phrases it in 1994, ‘a call without voice [*un appel sans voix*]’.

At first blush, this insistence on silence might seem surprising given just how noisy *Der Prozeß* is. As Tyler Whitney demonstrates, throughout the story the law is repeatedly shown to operate according to an ‘audio-spatial logic’ in which sound both permeates boundaries and is unlocalisable, even though the aural aspects have garnered comparatively little critical attention.⁵ An omnipresent threat of overhearing is accompanied by a sonic indiscernibility. Throughout *Der Prozeß* characters hear sounds through doors and walls, or are worrying that someone else is. On multiple occasions, the characters lower their voices to guard against the threat of a possible eavesdropper. The entire jurisprudential process is shrouded in rumour as various characters report that they have ‘heard’ this or that about the proceedings or K. prospects. Indeed, the first sentence announces that the whole affair is only set in motion by some unspecified—in other words, acousmatic—tittle-tattle (‘someone must have been telling tales about Josef K.’, as Mike Mitchell’s translation of *verleumdet* has it).⁶ On Derrida’s reading, the law silently apostrophises itself. Neither the man from the country nor the guardian exists before this call (this is the paradox of their being ‘before the law’). At the time it is addressed to them alone, and even as this address arrives as if an absolute externality, this outside is nowhere else but inside. The origin of the law is nothing but this self-guarding or self-silencing, if you like. Hence there is no general guarding of the law without the apostrophe that summons up the prohibited desire to enter it; that is why, when the guardian realises that the man’s hearing is

failing and roars in his ear to tell him that the doorway was made only for him, there is no entrance to the law once there is no ear to hear it.

The silent call, then, must still be heard. In Kafka's rendition, far from being silent, the impenetrable law in fact gives rise to a plethora of rather noisy acousmatic sonic effects, albeit possibly conjured by K.'s imagination. To this extent, *Der Prozeß* entails a deconstruction of Heidegger's call of conscience and perhaps even pushes at the limits of Derrida's reading. Besides the murmurs of the rumour mill, K. is frightened by staccato shouts from a neighbouring room, Fräulein Bürstner is startled by a loud knock on the door and the infiltration of industrial soundscapes into the court gives the protagonist bouts of anxiety and vertigo. If the law is a panacousticon, K. nonetheless struggles to hear or be heard through the din. Not only is he embarrassed that he cannot make out what the court officials are saying, even though they are speaking loudly enough. His own audibility is constantly undermined: he is urged that it is in his best interests to keep quiet, his efforts to defend himself are dismissed as noise, and the audience interrupts him with hissing, murmuring and screeching. Notwithstanding the interminable interrogations, K. cannot get a *hearing*.

Der Prozeß is, among other things, a commentary on the mutual imbrication of law and aurality, which Derrida's expressly recognises when he associates Kafka's law with Heidegger's call. By drawing on the later seminar, though, I ask after the structure not of the law itself but of testimony, and specifically what it is about law's silent originary call that means there can be no audible counter-testimony. Is this a function of a silence of the law in the double genitival sense of a law that keeps silent and that silences? Or does this inaudibility follow ineluctably from the character of testimony—which might itself be a definition of 'before the law' when one swears an oath to tell the truth, the whole truth and nothing but the truth?

This dilemma is posed by an earlier passage in *Der Prozeß* when, during the first interrogation, K. calls for the hearing he will repeatedly be denied:

‘I have no wish to shine as an orator [*Rednererfolg*],’ said K., having come to this conclusion, ‘nor could I if I wished. The Herr Examining Magistrate, no doubt, is much the better speaker, it is part of his vocation. All I desire is the public ventilation of a public grievance. Listen to me.’⁷

Within the theoretical framing developed in the seminar, the call of the law, as a kind of testimony, is a performative provocation to responsibility that exceeds the register of the constative. There can be no counter-testimony to the ‘intractable call’ because any reply I give, if it is to be of the order of testimony, would have to exceed the register of telling, reporting, demonstrating, illustrating, proving and so on.⁸ To solicit responsibility, this address cannot leave me indifferent. On Heidegger’s account, the call comes from me and yet, insofar as it exceeds my will and expectation, its *Rede* comes from the other in me, from an *Unheimlichkeit* that shakes me out of the inauthentic distraction and entertainment of idle and noisy chatter (*Gerede*) towards a more authentic attestation which knows the power of a speech that keeps silence. Recall, though, that in *Der Prozeß* the law’s summons seems to follow directly, and is perhaps not even distinguishable, from rumour and gossip that is too loud, such that it might even be said to come dangerously close to being noisily silent, silent in talking too much about nothing.

Without making anything in particular audible, the call of conscience is a stripped-down performativity, the minimal form of testimony that exposes its structure as a desire or demand for a hearing. If law’s silent call admits of no counter-testimony, if K. is necessarily denied a hearing, this is not because it imposes an external constraint. Both Derrida in *Before the Law* and Cixous, who reads the fable as an ‘interpellation’ by the word ‘law’, speak of Freudian repression. It is because the law has been internalised as the superego that the man cannot enter the law, for he is already within its grip and his desire therefore split. ‘The law is *in* the man’, observes Cixous, ‘so how can he enter the law?’⁹ She argues that the word ‘law’, as text, calls on the reader to lay down the law. That text is ‘diabolical’ because ‘one cannot contest that one is

before the law, even if one does not know it.’¹⁰ For a life that would not be structured by the libidinal economies of the moral law and its ‘functioning of prohibition that supports sublimation, restriction, immobility, and all that can be seen in Kafka’s text’, one has to be able to contest the law, to denaturalise it by asking where it comes from.¹¹

In the seminar, however, Derrida denies that it is a matter of forbidding oneself. If we cannot contest, it is not because ‘we would be crushed by the irrational, intransigent, implacable, inexorable authority and the occult force of a call without appeal, of an obscure superego before which we would bow humbly and defencelessly’, but on account of the movement by which Dasein appropriates the call to itself and thereby becomes properly and authentically what it is.¹² To the extent that it is its *ownmost* call, when Dasein hears, understands and attests to it, Dasein is unable to contest or protest against it.

Counterintuitively perhaps, given how pervasive deliberate accounts of democracy have become, any kind of discussion, negotiation, justification or moral, legal or political argument, and especially loud moralising, represents, if not entirely a betrayal, a ‘deafness’ or, beyond what might be remedied by a ‘hearing aid’, an active ‘dampening’ or ‘muffling’ [*assourdissement*] of the call to responsibility’s unconditionality. An unconditional testimony worthy of the name sets itself against rhetoric’s bid to persuade and convince, refusing to come to the bar to explain itself. Its imperative to hear and be heard removes itself from the sphere of the oath, legitimation and consent. While Derrida refrains from overtly contesting Heidegger, he does hint towards a deconstruction when he suggests that the call of conscience remains of the order of the promise and the performative because it has committed to respond in advance, evoking in conclusion an impossibility of hearing, a keeping silent, that would no longer be a *possibility*. Derrida suggests that listening, by comparison with other senses, is more amenable to interiorisation, evoking his familiar point about the metaphysical privilege of the cannibalising *s’entendre parler*. *Der Prozeß* invites us to ponder whether the only hearing that testimony can obtain is one that takes the chance of not hearing.

Notes

- ¹ Franz Kafka, *The Trial* in *The Complete Novels*, translated by Willa and Edwin Muir (London, Vintage Books, 2008), 182.
- ² Jacques Derrida, Séminaire Questions de la responsabilité III: le témoignage, unpublished seminar, Archive-Derrida, IMEC, 219DRR/234/1, 1993–1994, February 2, 1994, 9 (my translation).
- ³ Jacques Derrida, *Préjugés: devant la loi*, in Derrida et al., *La Faculté de Juger* (Paris, Les Éditions de Minuit, 1985), 123; *Before the Law: The Complete Text of Préjugées*, translated by Sandra van Reenen and Jacques de Ville (Minneapolis, University of Minnesota Press, 2018), 55.
- ⁴ Derrida, *Préjugés*, 110/36, 125/58.
- ⁵ Tyler Whitney, ‘Listening to the Law: Acoustical Embodiment and Industrial Space in *Der Proceß*’, *Colloquia Germanica* 46:4 (2013), 343–65.
- ⁶ Kafka, *The Trial*, translated by Mike Mitchell (Oxford, Oxford University Press, 2009), 5. Cf. John T Hamilton, ‘Haft: Kafka in Process’, *Inscription: The Journal of Material Text—Theory, Practice, History* 1 (2000), 39–40.
- ⁷ Kafka, *The Trial*, translated by Willa and Edwin Muir, 38.
- ⁸ Derrida, Séminaire, December 1, 1993, 16.
- ⁹ Hélène Cixous, ‘Writing and the Law’ in *Readings: The Poetics of Blanchot, Joyce, Kafka, Kleist, Lispector, and Tsvetayeva*, (Minneapolis, University of Minnesota Press, 1991), 18.
- ¹⁰ Cixous, ‘Writing and the Law’, 18.
- ¹¹ Cixous, ‘Writing and the Law’, 27, 19.
- ¹² Derrida, Séminaire, February 2, 1994, 9.