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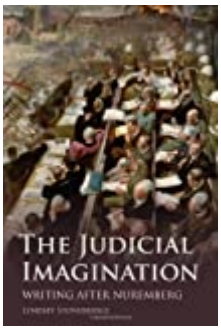

Lyndsey Stonebridge. *The Judicial Imagination: Writing after Nuremberg.* Edinburgh: Edinburgh University Press, 2011. 177 pp. $105.00 (cloth), ISBN 978-0-7486-4235-9.

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Writing about Crimes against Humanity and Statelessness after the Holocaust

To law professors, students, and practitioners interested in genocide studies, human rights, or international law, this book will likely fall outside their normal, or positivist, zone of comfort. Written by a professor of literature and critical theory at the University of East, *The Judicial Imagination: Writing after Nuremberg* approaches the subjects of international justice and human rights through literary-legal theory and trauma studies. Its empirical material consists of the texts of important post-Second World War writers and intellectuals, such as Hannah Arendt, Rebecca West, Martha Gellhorn, Muriel Spark, Elizabeth Bowen, and Iris Murdoch. Through the analysis of these authorsâ writings on the promise of justice after Nuremberg, Lyndsey Stonebridge artfully argues that their skepticism about the lawâs ability to legislate, and catch up to justice, was warranted. In this review, I highlight the arguments and judgments made by the authors at the center of this book and that I believe will be of most interest to legal scholars.[1]

In the immediate aftermath of the Second World War, there were concrete reasons to assume that the future of justice was promising. For many observers, the Nuremberg trial, the Paris Peace Conference, the Universal Declaration of Human Rights, and later the trial of Adolf Eichmann in Jerusalem, testified that a new era of human rights had arrived. Yet, the imaginative pull of these events and the onset of the Cold War did not mean that because the law was at work, justice was necessarily rendered. As Stonebridge writes, âit was not simply a return to the law that was so desperately needed in the wake of Nazi lawlessness, but a way of imagining how what had happened profoundly changed the ways in which it was possible to think about justice and judgment in the first placeâ (p. 2). But Nuremberg, in that sense, was the complete aesthetic failure that Rebecca West dutifully pointed out.

Through looking at structures of feeling and surface details, in particular of the defendants, West argued that Nuremberg was a failure because it could not imagine and fully feel the crime being judged. What Nuremberg needed beyond legal reason was for justice to be imparted while being experientially felt not only by witnesses and

victims, but also by perpetrators and bystanders. For a crime to be wrong, it must be felt as such. The notion that justice is tied up with the memory of victims was not a commonplace idea at Nuremberg. Legal theater, and hence victimsâ testimonies, have since come to symbolize war crime trials, Eichmannâs of course being a case in point. Unconsciously perhaps, West makes clear to her readers that trauma was not the only element missing at Nuremberg, but persons too, that is, those who had emerged in the postwar period as stateless, and without the rights a nation-state confers on its citizens. In the context of Nuremberg, the invention of âcrimes against humanityâ was an absolute necessity, the concentration camp having been the place where an absolute exclusion from rights and legality exerted itself.

The experiences of victims as a legal event was aptly grasped by Martha Gellhornâs understanding of the Eichmann trial. The trial was an important turning point because it highlighted the understanding that could come from the traumatic testimonies of victims instead of the quasi-exclusive reliance on documentary evidence that Nuremberg so well exemplified. That being said, Stonebridge does not take âtraumatic testimony as the end point for a more ethical justiceâ (p. 4) because of the Nazi crimeâs unending demands on comprehension, which trauma alone cannot always satisfy. Hannah Arendt, a central figure throughout the book, could not envisage how traumatic testimony, in and of itself, would lead to anything purposeful. Instead of yielding to sorrow and despair, Arendt thought that such testimony should be canalized into thinking and political judgment (which imply more than simple assertions of reason), or, in other words, be shifted from trauma to reflective and imaginative speech in order to gain political-juridical value, and acknowledgment by the law (she wanted, for instance, for the total collapse of morality that Eichmann represented to register at his trial, and for the Nazi crime to be seen as having no precedent).[2] Arguing in this manner, Stonebridge writes, Arendt initiated a new tradition of literary justice, which is not about âthe power of witness testimony, but â¦ about the necessity of reimagining the relations between language and thought and, in turn, between narrative and judgmentâ (p. 59). Writing about Muriel Spark, Stonebridge explains that she used the power of fiction to make sense of what came out of the Eichmann trial, and in particular its threat of meaninglessness. Sharing with Arendt the need to find a form of meaning to the event, Spark uses melodrama to fashion justice and in doing so includes race and religion in her writing. In particular, she shows that there is a limit to human reason, and that the new cult of suffering exemplified at Eichmannâs trial could obscure the seriousness of the Nazi crime against humanity. She recognizes in the end, as Stonebridge tells us, âhow the business of worldly justice is both buttressed and compromised by the presence of the occultâ (p. 95).

In the second part of her book Stonebridge returns to Arendt, who in her view was instrumental in problematizing the issue of statelessness, or homelessness, which made Nazi camps possible. At the time of Eichmannâs trial, Arendt thought that what was still wanting was âthe sense of a law capable of legislating against crimes against humanity from beyond the (frequently capricious) protection of the nation stateâ (p. 103). The situation of a refugee, therefore, should never be normalized because being stateless also means to be rightless; rights for Arendt were not natural but âpositive, national and politicalâ (p. 109). When writing on her own refugee status in 1943, Arendt had nowhere to exist and like all refugees was dependent on the chance of friendship and love. But it is âprecisely as a writer, as a stateless intellectual claiming the right to thought,â Stonebridge tells us, âthat Arendt brings her own condition into political and worldly viewâ (p. 109). Elizabeth Bowen, a novelist who went to the Paris Peace Conference, also strived to give voice to the stateless, ushering in the importance of displaced persons that would in part characterize postwar European literature. Bowen thus gave herself the task to make the displaced person seem real, engaging herself, as Stonebridge demonstrates, in the postwar politics of the novel and the ethics of literature.

Where Bowen seems to end–by asking âwhat form the novel of the future will have to take in order to do some kind of imaginative justice in the wake of the refugeeâ (p. 136)–is where Iris Murdoch, a moral philosopher and fiction writer, starts. Murdoch sees the operation of the law as having an ethical void characterized by the terrible world of the refugee, which love and political morality could perhaps occupy. She uses her fictional writing to firmly claim that other people exist, and contends that to make such a claim through the medium of the novel is ethically superior to philosophy in the postwar world–because the novel is the place âfor attending to [and rehabilitating] lost personsâ (p. 148).

In her concluding analysis, Stonebridge indicates support for the views of Arendt and Spark, namely that insisting on the reality of suffering is not necessarily, in and of itself, an adequate form of justice. She recognizes that they and other authors had grounds to be dissatisfied

with the law for not recognizing âthe idea of the rights of any living being beyond the frontiers of the nation stateâ (p. 160). Statelessness, unfortunately, continues to be a significant problem in todayâs world. By selecting novelists and political commentators as the subjects of her study, Stonebridge, in my view, has succeeded in demonstrating that justice is not solely a matter of the black-letter rule of law. She has also succeeded in demystifying the power of traumatic testimonies and to situate them among other attempts to seek and obtain justice. Finally, she has shown how analytically useful and intellectually powerful literature can be in comprehending and exposing the most grievous problems humanity faces. Overall, Stonebridge offers a balanced view of her subjects; she was careful to note the major criticisms leveled at each of the authors she studies, and to offer her assessment as to whether they were justified or not. Of course, by limiting my review to the elements of the book that would more likely resonate with a legal audience, I probably have not been as critical as a literary critic or trauma scholar could have been. In a sense, and it is my contention, this is perhaps a reflection of the multidisciplinary appeal of Stonebridgeâs book and her ability to speak to a variety of audiences in a meaningful way. Law is the richer for it, notwithstanding any flaw literary critics and trauma scholars will inevitably point out.

Notes

[1]. For legal scholars interested in a more juridical discussion of the relationship between genocide and the law, and the progress of justice, I would highly recommend as a companion to Stonebridgeâs book Payam Akhavan, *Reducing Genocide to Law: Definition, Meaning, and the Ultimate Crime* (Cambridge: Cambridge University Press, 2012).

[2]. During Eichmannâs trial, Arendt perceived that the trauma was not connecting well to the reality of mass extermination, which explains her criticism of the prosecutorâs verbose rhetoric and âpresentation of the trial as an act of collective mourningâ (p. 53). The effect of the prosecutorâs language was to suggest a banal understanding of the Nazi crime rooted in a history of persecution and suffering. For Arendt, however, the Nazi genocide âwas not simply the most horrible act in an ongoing history of anti-Semitism, but a new crime committed upon the body of the Jewish people, a crime against humanityâ (p. 53).

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