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# Hearing the voice of the estranged Other: Abolitionist ethical hermeneutics

*Kriminologisches Journal*

David Scott<sup>1</sup>

## Abstract

*This article explores the ethico-political justifications for hearing the prisoner voice from an abolitionist perspective. It starts by locating the interpretation of prisoner narratives within the specific moral context of the prison place and moves on to consider whether discourse ethics can effectively safeguard the voice of the prisoner. After identifying the strengths and weaknesses of discourse ethics and their application in liberal penologies, the discussion turns to the alternative critical theory of liberation ethics. Enrique Dussel (2013) has argued that we have an ethico-political responsibility to not only ensure material conditions are in place to facilitate voice but also to adopt the worldview of the powerless. Whilst such a position cannot be uncritically accepted, an argument is made for the selective adoption of the prisoner voice which is consistent with an abolitionist normative framework promoting emancipatory politics and praxis. The article draws to a conclusion by considering normative principles that can guide abolitionists when the prisoner voice is silenced.*

## Key Words

Penal Abolitionism, Prisoner Voice, Discourse Ethics, Liberation Ethics

Voice entails the *act* of speaking and the *art* of listening. As an expression of our distinctive place in the world its acknowledgement is essential for human well-being (Couldry 2010).

When voice is silenced, speech is disqualified or words invalidated, such refusal can be painful and damaging (Scott 2008). Acknowledgement occurs when a person's self-narrative is heard and responded to. From a penal abolitionist perspective, everyone should have the opportunity to speak and engage in open dialogue without violence. Doing so can sometimes visibilise hidden human experiences, for acknowledgement means to hear the voice of *all* people, including those who are considered radically different or repulsive to us (Cohen 2001).

The insights of Foucault (1980) on the subjugation of prisoner knowledge are hugely influential and the *political* grounds for acknowledging the world view of the prisoner are

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<sup>1</sup> The author would like to acknowledge the helpful comments on a previous draft of the paper made by the editor and two anonymous reviewers.

now well established. Over the last four decades, a number of critical criminologists and abolitionists, such as Sim (1994), have also pointed to the denial of the prisoner voice and championed what is commonly referred to as the ‘view from below’. Abolitionists<sup>2</sup> have drawn upon the view from below to highlight contradictions between penal policy and practice, to illustrate the inherent harms and violence of incarceration, and to highlight the limitations of penal reform (Sim 1994). The view from below is especially significant for penal abolitionists directly engaged in anti-prison activism in terms of authenticating dehumanising realities and generating political momentum. Thus on a theoretical level, penal abolitionists question the moral and political legitimacy of the current application of the penal rationale and call for alternative ways of handling interpersonal conflicts within a fairer and more egalitarian society (Scott 2013).

This article continues in this abolitionist tradition, but rather than constructing a defence of the view from below through the politics of prisoner activism or broader social movements, it explores the careful and selective adoption of the prisoner perspective on *ethical grounds*. The ethical framework advocated in the article explicitly draws upon the “ethics of alterity” (Otherness) as advocated by Levinas (1969) and Dussel (2013). For these thinkers, the ethical relationship, that is the people to whom we owe responsibility, arises through face-to-face encounters with another person: the other. The “absolute other is the Other [...] the Stranger”

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<sup>2</sup> An ‘abolitionist’ is someone who through either their writing or activism is motivated by the goal of abolishing penal repression. There are three main approaches to abolitionism. First, some abolitionists aim exclusively to abolish certain criminal laws - advocating for example the decriminalisation of drug usage - or have focused on the inappropriateness of the punishment of specific populations, such as women, children or people with mental health problems. These abolitionists are known as ‘partial abolitionists’. Second, a number of abolitionists call for the abolition of penal institutions - most notably the prison - as they are currently constituted, and these abolitionists are referred to as ‘prison abolitionists’. Third, a further group of abolitionists question not only the state institutions of punishment, but the penal rationale itself. These abolitionists are known as ‘penal abolitionists’. All of these different approaches to abolitionism locate penal sanctions within broader social, economic and political contexts and hierarchies of power. This article is grounded in the principles and normative framework of penal abolitionism.

(Levinas 1969: 39) – an outsider, a person in need, someone in trouble — and the strongest moral claims upon us arise from encounters with the Other (Ibid.). For abolitionists, the prisoner is an enforced stranger — the *estranged Other* — a person forcefully separated from family, friends and loved ones. The estranged Other is held in an institutionally structured violent context characterised by need deprivation: the prison, a place where voice can be manipulated or silenced.

The denial of voice raises profound ethical questions and this article starts by locating the interpretation of prisoner narratives within the situational pains and harms of the prison place. It then considers whether discourse ethics, a hugely influential critical theory advocated by Habermas (1994) and Apel (2001) in the long tradition of the Frankfurt School, can effectively safeguard the voice of the prisoner. The discussion then turns to the alternative theory of liberation ethics and, drawing upon the insights of Dussel (2013), calls for an ‘abolitionist ethical hermeneutic’. Taking into account the multilayered ideologies and discourses shaping the prisoner voice, this section postulates that an abolitionist ethical hermeneutic can contribute towards an emancipatory politics and praxis, albeit one in which the interpretation of voice is complicated. Therefore, whilst it is important to listen, to learn from prisoners and appropriately respond to their voice, an ethical interpretation also requires normative critical judgement taking into account biographical and institutional contexts. Consequently, the article explores the criteria upon which the prisoner voice should be ethically interpreted and evaluated. The article draws to a conclusion through contemplation of some principles that can guide abolitionists when the prisoner is prevented from speaking. Penal abolitionism is an ethico-political normative framework, a theoretical perspective, a political strategy and a social movement (Scott, 2013). Abolitionists, in various guises, provide the intellectual resources for anti-prison activism and contribute to a visualisation of

radical alternatives to the penal rationale. In discussing the ethics of penal abolitionism, the article also highlights the importance of direct engagement with prisoners — whether by research or political activism (or both) — and the importance of facilitating the voice of the ‘estranged Other’.

### *Interpreting prisoner narratives in a situational context*

We never get a ‘pure’ unadulterated voice that stands objectively outside situational contexts but rather a culturally mediated representation (Denzin 1989). Voice, and the meanings it expresses, derives from biographical experiences in combination with human encounters in immediate social settings (Orbuch 1997; Schmidt 2016). Rather than providing an unmediated account of the ‘real’, voice inevitably draws upon available “cultural scripts” in a given time and place (Smith and Watson 2010: 56). Yet, whilst the prisoner voice is shaped through culture and language, it still refers to *real* circumstances, events and experiences (Leiblich et al. 1998; Roberts 2002). When ethically interpreting the voice of the estranged Other, we must recognise that prisoner narratives are always positioned within the very *real* context of an institution designed to morally condemn and inflict pain.

The prison is experienced by many as a lonely, isolating and brutalising environment, where dull and monotonous routines systematically deprive them of basic human needs (Sykes 1958; Crewe 2009; Scott 2015a). Prisons create situational contexts denying privacy, intimacy or sufficient living space alongside the daily indignity of eating and sleeping in what is, in effect, a lavatory (Nagel 1976; Guenther 2013; Scott 2015a). Acute pains are also formed through an awareness of ‘time consciousness’, and the resulting sense of loss and wasting of life (Medlicott 2001; Scott and Codd 2010). The prison is shaped by a distinct morality which is substantially different to that in the outside world. Prisons generate

scenarios where prisoners are considered morally unworthy of narrating their lived experiences. Distanced and perceived as morally inferior, prisoners, by their *very status as prisoner*, can be denied membership of our common humanity (Scott 2008).

The prisoner label constructs the incarcerated self as a ‘bad person’ who is now defined primarily by their ‘crime’ and subsequent punishment. It is likely, then, that a salient factor motivating the prisoner voice will be the wish to present a more positive construction of the self (Mills 1940; Presser 2004). Pointing to the dehumanising nature and ‘badness’ of the penal machine does allow for the assertion of a ‘good’, or at least less obviously spoiled, identity as well as articulating the pains of confinement. Yet interpreting the prisoner voice is by no means simple. The ‘symbolic violence’ of the prison place can sometimes erase the possibility of constructing a ‘good person’ narrative: the prisoner may be so broken by the structural and material relations of penal power and the daily degradations of prison life that an alternative and positive narrative no longer seems possible (Davies 1990). Alternatively, prisoners may come to accept the pain and suffering of the prison place without question as a means of accommodating to their circumstances (Schinkel 2014) or start to ‘parrot’ the dominant language of the penal regime (Lacombe 2008).<sup>3</sup>

Penal institutions are conceived to not only constrain the freedom of movement of prisoners but also as machines that can write over previous identities and create a new self. At a micro level, institutional practices aim to foster an “internalization of ideology and hegemony” (Moore and Scraton 2013: 33) as a means of ‘incorporating’ or ‘eliminating’ opposition to penal regimes. Prisoners are coached to “tell their stories properly” (Polletta et al. 2011: 15)

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<sup>3</sup> See also literature in the labelling tradition, upon which Lacombe (2008) draws in her analysis. For a recent overview and discussion of the labelling perspective, see Dellwing et al. (2014) *The Death and Resurrection of Deviance: Current Ideas and Research*.

and teaching prisoners to reproduce “hegemonic scripts” goes back centuries. Some of the first voices to emerge from the convict prisons in England were mediated by prison chaplains. For example, in 1853, Chester Castle’s chaplain, H.S. Joseph (1853), published an anthology of prisoner narratives entitled *Memoirs of Convicted Prisoners*.<sup>4</sup> The prisoner narratives, all extolling the virtues of prisons, were carefully selected to tell a story of successful prisoner reformation. Subsequent exposure of the manipulation of the prisoner voice, the proliferation of counter-narratives challenging tales of rehabilitation, and the generally catastrophic failures of prisons to meet such a goal, has done little to extinguish rehabilitative myths.

Prisoner acquiescence and the incorporation of voice to support existing HM Prison Service practices fit all of the hallmarks of a hegemonic project (Gramsci 1971). Penal power, it would seem, “is at its most effective when least observable” (Lukes 2005: 1), and can exclude certain ways of thinking, speaking or acting. This can lead to prisoner voices being used to advocate interpretations of prison life which undermine their common humanity. Contemporary studies of violent offenders (Fox 1999) and prisoners on sex-offender treatment programmes (Lacombe 2008) highlight how prison treatment professionals attempt to ‘penetrate the mind’ of prisoners and reconstruct prisoner narratives through the logic of cognitive behavioural treatment programmes. The end product is a reassertion of the prisoner identity grounded in a ‘pathological self’, but this time created by the internalisation of psycho-medical discourses (Scott and Codd 2010). Through speaking such psycho-medical language, the prisoner voice provides a new cloak of penal legitimacy rather than contributing to an emancipatory praxis.

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<sup>4</sup> The anthology of Joseph (1853) is considered one of the first publications of prisoner autobiographies in the UK, following the introduction of ‘reformed prisons’ earlier in the 1800s.

While the prisoner voice may well be easily manipulated, even prisoners expressing ‘hegemonic scripts’ challenge moral assumptions that their world view is irrelevant, as well as giving some control over the representation of their identity. Whatever the difficulties of interpretation, the prisoner voice can be a means of expressing human spirit, inspiring struggles against dehumanisation and giving ‘witness to oppression’ (Spivak 1988; Gilmore 2001; Roberts 2002; Smith and Watson 2010). The important thing is to judge not the speaker, but *what is said*. To this end, it is helpful to consider the normative insights of discourse ethics as this provides an important element in safeguarding the voices of prisoners.

### *Discourse ethics*

From the perspective of discourse ethics, *all* people should be allowed to engage in open reciprocal and meaningful dialogue, no matter who they are or what they may have done. The validity of voice should be determined through the ‘forceless force’ of rational discussion (Habermas 1994; Benhabib 2004), where the better argument wins the debate. In the discourse ethics of Apel (2001) and Habermas (1994), respect for, and protection of, inviolable human dignity underscore formal processes through which voice is heard. For Apel (2001), discourse ethics are universal principles aiming to provide practical procedures for how to act in ‘everyday situations’. We should listen to the voices of others, recognise their diversity and facilitate their right to define their own reality. To speak is to have an opinion heard, to count as a fellow but unique human being (Benhabib 2011).

A number of liberal penological studies have emphasised procedural justice, due process and fairness in prisons as means to facilitate the prisoner voice. For such thinkers, prisoners are to be treated with respect and their voices are to be heard in an impartial manner (Sparks et al.

1996; Liebling 2004). One of the most influential of these proponents is Lord Justice Woolf (1991). In his report into prison disturbances in England and Wales in April 1990,<sup>5</sup> Woolf made a number of recommendations grounded in principles of procedural fairness that appear to follow the principles of discourse ethics. Yet his is a consequentialist rather than a deontological approach to hearing voice. Woolf (1991: para 14.5) sought procedural justice not “for prisoners for their own sakes. To think that would be to fundamentally misconceive the argument”. Processes facilitating hearing the prisoner voice were a means to an end: prisoner rehabilitation. Further, rather than promoting an unprejudiced listening, Woolf maintained that the procedural safeguards for hearing voice were predicated on responsible prisoner behaviour. Ultimately, this liberal approach did not value the prisoner voice in and of itself, meaning it could be easily dismissed when dissenting against the harsh and brutal realities of imprisonment.

Liberal penologies have also been much criticised for neglecting how fairness and procedural justice can be undermined by the daily workings of prison life. Having procedures in place is one thing, but problems continue if genuine access is obstructed. This is especially the case if an authoritarian staff culture is deeply structured within normal daily prison practices, where prison officers enforce power relations through discretion and personal authority rather than following due process when maintaining order (Scruton et al. 1991; Scott 2006, 2015b). Further, there is a tendency for liberal penologies to place too much faith in notions of fair procedures (Schmidt 2016). Emphasis on ‘procedural justice’ has meant that alternative conceptualisations of justice and ‘just outcomes’ have been inadequately considered in the prison place.

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<sup>5</sup> The prison disturbances in April 1990 were the largest and most prolonged uprisings among prisoners in the UK in the last 70 years.

Discourse ethics is confronted with some additional serious challenges when considering the prisoner voice. Given the nature of prisons, it is almost inevitable that the prisoner will be physically and/or structurally prevented from participation in conversations with members of the general public and there may be no, or only limited, access to spaces for dialogue with debating partners within the prison place. Further, given their socially excluded backgrounds, many of those behind bars have found it difficult to perform the “language games” of “normal society” (Schmidt 2016). This is unlikely to be addressed in “prison society” as “skill comes with practice” and opportunities for developing communication skills are not common in the prison place (Ibid.). Nor would discourse ethics automatically raise concerns if the estranged Other is only invited to speak through the hegemonic idiom, even though this may result in silencing. Alternative means of communication, such as collective prisoner protests and individualised forms of resistance and contestation, are unlikely to be interpreted as speech acts under the rules of discourse ethics (Scruton et al. 1991).

Through harnessing the principles of mutual respect and cooperation, discourse ethics attempts to arrive at a valid, mutually recognised consensus. Yet its predication on equal co-responsibility for dialogue means that discourse ethics will collapse without reciprocation (Apel 2001). Discourse ‘ethics’ also reduces ethics to mutuality alone. As Kropotkin (1923) has argued, whilst a political system based upon mutual aid and reciprocation may be the preferred option, it is the non-reciprocated act of self-sacrifice for another person that signifies true ethics. For Levinas (1969) and Dussel (1985, 1998, 2008, 2013), our ethical responsibility exists irrespective of the question of reciprocation. In other words, even if the prisoner is disrespectful and fails to engage with us, we should still patiently listen and respond when they speak. Reciprocation can lead to unjust compromises where the interests

of the powerless are erased in appeasement of the claims of the powerful. Ultimately, we must be prepared to surpass reciprocity and procedural fairness in the pursuit of hearing the prisoner voice. This means connecting the philosophical insights of ‘liberation ethics’ with those of penal abolitionism. This is significant on two levels: first, the ethics of abolitionism can be deepened and enhanced through an engagement with the writings of Dussel (2013), and second, such an engagement can also indicate the relevance of abolitionist ideas for contemporary philosophical debates.

### *Liberation ethics*

The estranged Other must not be forced to suffer in silence. In fact, recognition of the voice is “the first constitutive moment of the ethical process” (Dussel 2013: 52). However, whereas discourse ethics represent the ‘linguistic turn’ in philosophy, liberation ethics prioritise meeting corporeal need and what Dussel (1998: 13) calls the “paradigm of life”. The intention is not to uncover universal, transcendental or abstract principles of dialogue, but to understand human existence here and now within its historical, social, political, temporal and spatial contexts. For Dussel (2013: 55), whilst the “moral formal principle” of rational intersubjective dialogue as developed in “discourse ethics” is necessary, we must first ensure that all possible conversational partners have life conditions conducive to human flourishing. In other words, human voice is embodied and has corporeal needs that must be met before the speech act can be performed. Life must always come before language, for the dead cannot speak. Dussel (1998, 2013) refers to this as the “material principle”. Any social or institutional structure that creates death rather than life perpetuates need deprivation and/or propagates cultural, physical or structural violence; it must therefore be criticised, if not abolished (Dussel 1998; Scott 2015a). This has clear implications for the prison place.

Ethics has an inevitable social dimension and each person's individual morality is deeply connected with the lives of others. Responsibility for the Other emerges through an asymmetrical relationship: that is, an encounter with someone who is less powerful than us. We cannot in good conscience turn away from those in need, those who are suffering, those facing trouble, trauma or torment. We have an ethical responsibility. This responsibility is not reciprocal or mutually reinforcing, but an obligation that is owed. In this power/responsibility axis, therefore, people in positions of power have a responsibility not to assist themselves but to respond to the call of the Other. This means, then, not just having processes in place to facilitate the prisoner voice, but acknowledging and responding appropriately to that voice. The voice of the estranged Other demands our attention because we are "impelled by an *ethical duty*" through a "co-responsibility" for their life and well-being (Dussel 2013: 285, emphasis in original). Indeed, a transformative logic lies at the heart of the ethical relationship: there is an ethical responsibility to work towards the emancipation of the Other who is excluded, marginalised and exploited, whoever they may be. This is not to sidestep significant difficulties regarding what an individual's a priori needs entail — the contingency of human experiences or problems concerning how the imposition of normative values can create paternalism — but rather to emphasise the importance of facilitating and hearing (an imperfect) voice in the first instance, so that further negotiations can be entered into regarding the meeting of genuine human need.<sup>6</sup>

There is, then, an ethico-political responsibility to liberate the Other from authoritarian domination, violence, and false hierarchies of power. For a clean "ethical conscience"

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<sup>6</sup> I would like to thank an anonymous reviewer for raising the important tension in the writings of Dussel (2013) with those of the sociological insights of Peter L. Berger and Thomas Luckmann's (1966) *The Social Construction of Reality* and its application in this article. Alongside the points raised in the text, there is the difficulty of differentiating between needs and wants — which, again, emphasises the point of negotiation — and the ever-evolving notion of 'necessary needs', in which human needs reflect the socio-economic conditions of a society at a given historical moment.

(Dussel 1985: 59), we must demand an end to injustice and participate in the struggle towards rebuilding destroyed human lives. This means challenging institutionally structured practices of violence, social death and abandonment (Stauffer 2015; Scott 2015a). We should always recognise and respond to the pain and suffering of the powerless. The voice of the estranged Other must be heard, even if they cannot speak the ‘language of the system’ or understand the conversational nuances of the hegemonic idiom (dominant way of speaking). When the estranged Other does speak (for the very appearance of the face of the estranged Other automatically starts a dialogue), we must patiently listen. Their voice must not be automatically disqualified from democratic dialogue. There are, of course, difficulties in interpreting voice, but the ethical impulse is clear: we must allow the prisoner to speak.

### *Abolitionist ethical hermeneutics*

The ethics of liberation are an ethics for a world characterised by social injustice. Given the deep fault lines around ‘race’, gender, sexuality, age, (dis)ability and class in advanced capitalist societies, the ethics of alterity are undoubtedly the ethics for our historical conjuncture. The existence of people excluded from democratic dialogue poses a significant challenge to any consensus. Their voices have not been heard. They have not participated in any new agreement. As such, there is an ethico-political responsibility to search out and acknowledge voices that are denied, silenced or ignored. In other words, an ethical responsibility to hear and understand the voice of the Other.

But Dussel’s ‘ethical hermeneutics’ goes further than this. It also means attempting to interpret the world from the perspective of the estranged Other (Dussel 1985; Barber 1998). For Dussel (1985, 2013), assuming the voice least likely to be heard is the only way that we can rationally guarantee that all views will be considered in a dialogue between

conversational partners. As a result, ethical interpretation will become attuned to the domination, exploitation and repression silencing the Other. Despite its merits, there can then be no uncritical adoption of Dussel's formulation of ethical hermeneutics in the prison place. Interpretation is especially challenging in an institution designed to manipulate voice through the logic of rehabilitative programmes and/or the moral discourse of less eligibility (Scott 2006; Lacombe 2008). Yet the potential significance of a modified 'abolitionist ethical hermeneutic' is undoubted: through a careful and selective adoption of the prisoner worldview will never lose sight of the (currently often unacknowledged) suffering of the estranged Other (Cohen 2001; Scott 2015b).

Solidarity with sufferers entails patient, respectful and careful listening (Dussel 1998). Ethical dialogue should begin with the voice of the estranged Other, and listeners have a responsibility to both acknowledge what is said and to learn from it (Ibid.). Ethical hermeneutics requires us to undertake a "pedagogic apprenticeship" (Barber 1998: 53) with the estranged Other, and slowly but surely develop new understandings of their and our worlds. This would mean having a sensitivity and appreciation of how penal power shapes the prisoner voice, but also recognition of how prisoners can subvert such power (Scruton et al. 1991). Developing this kind of awareness is key for such an apprenticeship. Our ears must become habituated to the language of the Other and our eyes to what they see, so we can be educated by them (Dussel 1985). What had previously been hidden or invisible may be revealed through their words. We can start to glean new knowledge from the margins about daily lived reality:

One who lives out the ethos of liberation locates herself in the 'hermeneutic position' of the oppressed and takes on their interests, thereby discovering previously unnoticed values and emphases and opening the horizon of the possible constitution of objects of knowledge often invisible to those ensconced within the Totality. (Barber 1998: 69)

Attuning our ears in such a manner means being prepared to hear stories and accounts that may challenge our pre-existing understandings of the world (Stauffer 2015). Hearing the voice of the estranged Other must be rooted in a genuine openness and engagement with what is said about the harmful situational contexts of the prison place and the exercise of penal power.

Despite its merits, there can then be no unmodified translation of Dussel's call to assume the worldview of the least powerful in the prison place.<sup>7</sup> Ethical interpretation is especially challenging in an institution designed to manipulate voice through the logic of rehabilitative programmes and/or the moral discourse of less eligibility (Scott 2006; Lacombe 2008). But an ethical hermeneutic also entails listening to what remains unsaid (Ibid.). Prisoner worldviews may also be profoundly conservative or discriminatory. The potential, though, of a modified 'abolitionist ethical hermeneutic' is undoubted: through a careful and selective adoption of the prisoner worldview, sight will never be lost of the (currently often unacknowledged) suffering of the estranged Other (Cohen 2001; Scott 2015b). But alongside silencing and denial always sits the institutionalised manipulation of the prisoner voice. Consequently, 'what is said' must always be open to critical evaluation.

### *Critical judgement*

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<sup>7</sup> This point is anticipated by Dussel (2013: 239, emphasis in the original), who argues that "something that the ethics of liberation has always clearly understood: The situation of the [oppressed] is not a guarantee of understanding either [...] This is why it is necessary to accept that the victims themselves, alone, cannot carry out a sufficiently analytical and explanatory criticism against the system: The theoretician, whose activity consists of accelerating developments that might lead to a society without injustice, may find himself in opposition to opinions that prevail [...] If such a possibility of conflict did not exist, theoretical work would be unnecessary [...] The mission of the *critical theorist* is to reduce the discrepancy between his comprehension and that of *oppressed* humanity for which he thinks".

The ethical relationship between the self and the Other is a dialogue rather than a monologue (Dussel 2013). The call of the estranged Other should initiate a response, but there remains a requirement for critical judgement. An abolitionist ethical hermeneutic champions the emancipation of the powerless, dominated and repressed, and attempts to understand the world from their marginalised perspective. But there is no guarantee that listening to the prisoner voice will automatically lead to greater enlightenment: the estranged Other may endorse or exaggerate discriminatory ideologies such as racism, sexism and homophobia. The prisoner voice must also be understood within the multilayered discourse and ideologies that permeate the prison place. Penal power is expressed through rehabilitative programmes and moral discourses that have the explicit purpose to transform the self. Such hegemonic practices and ideologies can manipulate and transform the prisoner voice into the service of penal authorities. Abolitionist ethical hermeneutics (the ethical interpretation) must always then evaluate the prisoner voice while considering its consistency with the normative principles of human rights, social justice and democratic accountability (Scott 2013, 2016).

Critical judgement is not judgemental. Judgementalism is quick to blame and condemn, is certain of itself, willing to quickly dismiss the views of the Other, and draws upon negative stereotypes (Gaita 2002). Critical judgement is its inverse. When hearing a person give their own self-narrative, the listener's moral judgement is suspended. When we do judge we must do so with great care, compassion and considerable reluctance (Ibid.). Critical judgement should be made in the interests of the Other rather than the self. This means two things for an abolitionist ethical hermeneutic. First, that we should be prepared for self-critique in response to the voice of the estranged Other and second, if we do criticise their voice, we do so *for* them. We are called to engage in a dialogue with the Other, and a reluctant, but critical, appraisal of their words, actions and beliefs is part of that ethical responsibility. The ethical

demand arising through an encounter with the face of the estranged Other is the start of a rational dialogue. We should listen and learn, but may also be compelled to disagree. When the estranged Other espouses views that perpetuate or would create injustice they should be challenged (Sim 2003). There must then be a careful and selective approach to the prisoner voice, one which is sensitive to the way in which voice is situated within the ideologies and discourses of the prison place. Interpretation of prisoner voices also requires reflection on the subject position of the abolitionist, whether as activists, theoreticians or researchers, something which is discussed further below.

Abolitionist ethical hermeneutics require only that the voice of the estranged Other is heard, not that it dominates proceedings or is considered unproblematic. The ethical responsibility is to facilitate a rational dialogue, not create ‘epistemic privilege’. The difficulty with ‘epistemic privilege’ is that in privileging a particular person or group at the expense of all others, any statement by them is impervious to critique. It cannot be challenged as nobody else is qualified to comment. “Unwelcome knowledge” (Cohen 2001) about the inherent harms and violence of imprisonment can come from many different sources. Those who have knowledge should be given the opportunity to speak, whoever they are. The responsibility is to ensure the inclusion of the voice of the estranged Other at the start of the communication process, not to thoughtlessly follow their views.

We should always be unwilling judges, constantly questioning our right and competency to do so, and open to amending our decision. We should make judgements from below, alongside, together and with others, but perhaps most significantly of all *we must primarily judge to prevent injustice*. Equally importantly, an *ethical judgement should never in itself lead to further manifestations of injustice* (Dussel 2013). Critical judgement should then

aspire to deliver justice. We should therefore be offended by unjust practices which dehumanise, threaten dignity and destroy the world. This means judging social structures and institutions which result in the ruination of a person's body, mind and soul. A just judgement acknowledges the Other's common humanity (Gaita 2002). If we have to judge voice it should not be the speaker, but the strength and rationality of *what is said* (Apel 2001). Critical judgement should be linked with interventions promoting the "paradigm of life" (Dussel 2013) and be in the service of an emancipatory politics aspiring to deliver justice for all (Alcoff 1995; Dussel 1998; Gaita 2002).

### *When the estranged Other cannot speak*

But what should abolitionists do if the estranged Other cannot speak? Can it *ever* be appropriate *to speak for the prisoner*? Hegemonic forms of cultural and political representation can directly exclude the prisoner from speaking, manipulate voice so that it reflects hegemonic penal constructions of reality or morally condemn them as unworthy of being heard (Foucault 1980; Spivak 1988; Scott 2008). The way the prisoner communicates may not be understood by the hegemonic "master discourse" (Dussel 1985). The prisoner may not understand or adhere to the dominant idiom of the speech act. They may communicate in a different idiom: prisoners may speak but not find themselves widely understood (Spivak 1988). The problem is that speaking on behalf of the marginalised and excluded could, paradoxically, facilitate the silencing of voice (Spivak 1988; hooks 1991). The estranged Other is 'ventriloquized' by a more privileged speaker, which does nothing to disrupt existing hierarchies of power (Spivak 1988; hooks 1991; Alcoff 1995). As such, speaking for others "is arrogant, vain, unethical and politically illegitimate" (Alcoff 1995: 97–8). Therefore, the question of whether the abolitionist (certainly as a political activist) should speak *for* the Other must always be a "second order question" (Ibid.). First, the

abolitionist must help the prisoner give their own account, something that may be a necessary part of the healing process (Scarry 1985).

Deliberately ignoring voice is linked to the exercise of penal power. The views and opinions of prisoners can be deemed invalid or illegitimate. Those in positions of penal power define and set parameters on what can be said and who can speak (Foucault 1980). For knowledge to be utilised, the ‘knower’ must establish a right to speak, for acceptance of any given statement is often linked to the status of the speaker. Not all voices are heard and not all speakers are viewed with the same standing or invested with the ability to provide a legitimate interpretation (Foucault 1980). In the ‘view from above’ (official discourse), the prisoner voice can be reduced to a ‘subjugated knowledge’ that is either entirely neglected or discredited (Ibid.). For example, in the Keith Report investigating the death of Zahid Mubarek,<sup>8</sup> the author declared that “[i]nvariably what the prisoner says is not reliable [...] There is no reason to suppose that prisoners always tell the truth when asked” (Keith 2006: 500). The moral condemnation associated with the prisoner label systematically undervalues voice and blocks self-narratives, denying the estranged Other a platform from which to speak (Foucault 1980; Scott 2008; Couldry 2010). The prisoner can be silenced because they cannot “register a sovereign speech act” (Spivak 1988) or are unable to denote who they are in the existing structures of representation (Ibid.).

But this is not the whole story, for prisons are world-destroying places. Prisons create not the ‘paradigm of life’ but pain, suffering and civil, social and corporeal death (Scott 2015a).

Human life is largely about building meaningful and fulfilling relations with other humans,

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<sup>8</sup> Zahid Mubarek was a young Asian prisoner who was killed in Feltham Young Offender Institution by his cellmate Robert Stewart — a known racist — on 21 March 2000. Following a long legal battle by the Mubarek family, a public inquiry into his death was ordered, which was headed up by Mr Justice Keith.

but the prison place individualises and undermines our intersubjectivity, not only by removing people from previous relationships but by creating a type of social death that prevents the formation of new life-affirming relationships (Kropotkin 1923). Voice is “co-authored”, and only reveals its true meaning and importance in conversation with other people (Stauffer 2015). To have voice is to be part of a wider community, to engender feelings of belonging, trust and security. Prisons unmake lifeworlds. That is, the concrete social relationships and interpersonal connections with other human beings that provide the foundations for our identity and being-in-the-world start to unravel, and such unravelling can lead to the collapse of the self. The denial of voice combined with social abandonment (social death) results in a new and profound sense of anguish, existential crisis and “ethical loneliness” (Stauffer 2015: 1). Not hearing the voice of the estranged Other, failing to respond to a cry of pain, matters enormously to those who are not heard because the sense of abandonment impacts upon how the past resonates in the present and how they face the future. To feel intense pain is to be overwhelmed in the present and to experience the past as alien and “unfathomable” (Scarry 1985).

The pain and suffering generated through penal incarceration can destroy the capacity to speak (Stauffer 2015). At times, human suffering is “unsharable” (Scarry 1985: 4). The sufferer, who no longer has the words to express what they are feeling, is silenced, made invisible and denied full participation in the human community (Ibid.). An abolitionist ethical hermeneutic, therefore, also entails listening to what remains unsaid (Stauffer 2015). Some things cannot be said without revealing weakness. Sometimes the truth is so horrible that it is best left unsaid (Ibid.), but other times the denial of voice can only exacerbate injustice.

Talking about suffering may also be so disturbing that it silences others. Listeners may become illiterate and unable to understand or acknowledge what the prisoner has told them because they do not understand the extent or meaning of the pain described (Ibid.). The Other is muted. There does not necessarily have to be the intention to deliberately silence the estranged Other. It is that *we just do not always know how to hear the voice of the Other*. The hegemonic idiom does not understand when the estranged Other speaks (Spivak 1988). It is penologically illiterate and ignorant of the Other. It needs educating.

None of this means that abolitionists should never speak on behalf of the estranged Other. What it does suggest, though, is that the prisoners should not be forced to follow the language rules of the hegemonic discourse. Nor should they be silenced (Dussel 1998). If the prisoner does not know the hegemonic idiom, or the hegemonic idiom does not understand the prisoner, the abolitionist must attempt to act as interpreter. The abolitionist, especially one who has served their ‘pedagogic apprenticeship’, has a responsibility to understand, placing even greater emphasis on careful and patient listening and the interpretation of voice within a complicated prison situational context. Sometimes what is being said is not clear. Sometimes nothing can be said. Sometimes no one can speak. Who, then, hears the voices of prisoners with serious mental-health problems, the dead or dying, the d/Deaf, the foreigner who does not speak the national language of the prison service, or those in solitary confinement denied contact with another person? Who will speak *for* them? How can their voices be heard?

### *Six conditions of speaking*

For Spivak (1988), intellectuals must find a balance between listening and responding to the voice and participating in a dialogue that does not result in the *paralysis* of the Other’s ability to speak or be heard. Though reluctant speakers, there are certain “conditions of dialogue”

(Alcoff 1995: 110) that, when all else fails, allows speech on behalf of prisoners. Detailed below are six such conditions drawing on the insights of Alcoff (1995: 110–113).

1. *Fight against the impetus to speak.* The first priority always must be to *hear* voice. The speech act is legitimate only if prisoners have been prevented from speaking or are struggling to articulate their own experiences, such as the largely invisible harms of institutionally structured violence.
2. *Not silencing the Other.* Abolitionists should ensure their speech act does not silence prisoner voices. Their narrative should draw either implicitly or explicitly upon the experience, actions or words of the estranged Other. Questions should be raised about the absence of the actual prisoner voice, and their presence championed. Speaking *for* must be an act of last resort.
3. *Acknowledge a privileged speaking position.* The abolitionist should make their privileged identity and subject position clear from the outset. This means acknowledging their own social background, status and political ideals. It should be made obvious that the speech act derives from *their* speaking position, not that of the estranged Other. The abolitionist should speak with great care, utilise rigorous scholarship and draw upon the words of prisoners as faithfully as possible.
4. *Take responsibility for the Other.* The abolitionist should speak *on behalf* and *for* the estranged Other. The speech act of the abolitionist is in place of silence. Speaking is an act of responsibility *for* the estranged Other. Abolitionists should speak only when nobody else can or will speak with such ethical responsibility.

5. *The emancipatory objective of speaking.* Abolitionism is a form of emancipatory knowledge challenging injustice, need deprivation and the state manufacture of suffering and death. The speech act should stimulate a counter-hegemonic narrative visibilising the pain, suffering and lived experiences of the prisoner. It should aim to facilitate emancipatory politics *for* the estranged Other and to promote broader values and principles of social justice.
6. *Self-silencing.* Abolitionists cannot bring closure to dialogue about the estranged Other. As reluctant contributors, they should always be open to critique and a “counter-narrative” or “counter-sentence” by the estranged Other (Spivak 1988).

### *Legislators and interpreters*

Abolitionist ethical hermeneutics facilitate the prisoner voice, carefully listening to what is said and (under certain conditions) engaging in dialogue with and alongside the estranged Other about the realities of prison life. Abolitionists must not be silent but rather should speak with responsibility. They should be both interpreters and legislators. As *interpreters*, abolitionists should help translate the idiom of the estranged Other for a wider audience. Alongside engineering a platform for the prisoner voice, abolitionists should help those who have limited penological literacy to understand the prisoner’s lifeworld and what it means to see the world through their eyes. This means also acknowledging how the prisoner voice can be manipulated as well as silenced. There is an *art* to listening and interpreting the prisoner voice. It is as important that the hegemonic idiom changes its way of hearing and listening to the estranged Other, as it is for the estranged Other to engage in the hegemonic idiom of rational discourse. As Stauffer (2015: 8, emphasis added) has argued:

It will be important for those who listen to reflect on the limits to what they already know and how that affects *what they are able to hear*. Perhaps then people and the institutions they design will be able to listen for their own failures — and thus begin to live up to what justice [...] or long-standing injustice demands.

We need more pedagogical apprentices ‘learning to learn’ from the voice of the estranged Other. But abolitionists should also be *legislators*. Abolitionists should deploy their critical judgements and normative frameworks to critique unjust institutions of domination and repression. They should do so also to challenge discriminatory stereotypes, including those expressed by prisoners. Interpreting the prisoner voice can be difficult and so must always be contextualised within a broader commitment to emancipatory politics and praxis. Voices should be judged drawing upon an abolitionist normative framework grounded in the principles of social justice, human rights and democratic accountability (Scott 2013, 2016). In times of great social injustice, there must not be silence, nor only a small number of voices considered suitable to speak on injustices, but rather an open dialogue fostering transformative and emancipatory change, visualising real utopian ‘life affirming’ alternatives to the penal rationale and promoting new visions of justice for all.

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