Readers interested in the theological implications of existentialism, hermeneutics, and deconstruction would be attracted to *The Fall of Interpretation*. In his book, Smith assesses various theological and philosophical interpretations of interpretation, and argues that the majority of writers who claim to be post-foundational are, in fact, closet essentialists. There are several aspects of this book that must be applauded. For one thing, Smith's bold and broad scope is commendable. His book, moreover, is written in a free and easy manner that makes his point accessible for readers unschooled in the jargon of contemporary philosophy. His focus on the biblical “fall,” and his subsequent examination of how a theological conception of a “fall” finds itself entrenched in Derrida, Heidegger, and Gadamer, is perhaps the most interesting, if not compelling (in the case of Gadamer), aspect of Smith’s book. Another noteworthy contribution of Smith’s book can be summarized in his thought-provoking question: “the terms creation and fall are common parlance in theology, but can this terminology be transported into philosophical discourse? Is this not faith language and therefore inadmissible in philosophy?” (25)

Smith begins his book by interpreting our banishment from the Garden of Eden as a fall that results in the necessity of interpretation. What the Garden represents is the pure immediacy of meaning and truth. Smith equates our banishment from the Garden with both the corruption of immediacy and also the need for mediation, distance, and the “curse” of interpretation. Interpretation, Smith argues, is conceived of as a despised sin by both theological and philosophical writers. Smith traces the conception of interpretation as a fallen state in the works of Koivisto, Lints, Pannenberg, Gadamer, Habermas, Heidegger, and Derrida. The first half of his book is devoted to addressing “how these authors and traditions understand interpretation itself: what status do they accord to the act of interpretation?... What valuation is accorded to interpretation?... How does the tradition interpret interpretation itself?” (19) Beginning with Koivisto and Lints, Smith argues that contemporary evangelical theology understands interpretation as a mediation that must be overcome. Smith suggests that using hermeneutics both to negate the need for hermeneutics and also to reinstate a paradise of present immediacy is the ultimate goal for both Koivisto and Lints.

While Smith’s coverage of Koivisto and Lints is fair and convincing, his interpretation of Gadamer’s hermeneutics is wrought with dubious assumptions. Smith proposes that Gadamer only embraces interpretation on the surface of his philosophy while underneath longing for an essential immediacy. He argues that Gadamer presents us with a philosophy that understands interpretation as only currently necessary, and to be overcome by the end of time. In claiming that
Gadamer understands interpretation as somehow fallen, Smith argues that Gadamer expresses the hope of one day overcoming interpretation and escaping our human finitude. Smith’s perspective is perhaps unsurprising considering his implicit allegiance to Caputo. Smith’s indebtedness to Caputo results in an interpretation that presents nothing we have not already heard from Caputo himself. Smith makes numerous uncritical references to Caputo’s presentation of Gadamer as a "closet essentialist," and adds nothing new to Caputo’s position (except, maybe, a pledge to become the best Caputonian possible).

Less dubious, however, are Smith’s interpretations of Heidegger and Derrida. Smith spends much time discussing Heidegger’s conception of facticity and focusing on Heidegger’s description of the human situation as being connected to a violent fall. Smith points out that Derrida is operating with a model very similar to Heidegger’s, insofar as he understands interpretation as a violent act which separates, cuts, and excludes. Similar to Heidegger, the fall is built into Derrida’s description of interpretation; where misunderstanding and misinterpretation are woven into the very structure of the sign.

While Smith sees himself as sympathetic to both Heidegger and Derrida, he differentiates himself on the issue of interpreting interpretation as a fall. In this light, Smith writes: “While I agree with both Heidegger and Derrida that interpretation is part and parcel of being human, I disagree—precisely because of that view of interpretation—with their construal of this as necessarily or structurally fallen and violent” (89). Smith distances himself from both Heidegger and Derrida by asking: “but if interpretation—and the determine conditions of interpretation—are necessary and ‘essential’ aspects of human existence, why must these be described as fallen and violent?” (99) At this point, we might ask: why not? It is clear that Smith is terrified of associating interpretation with violence, but he neglects to address and/or critique Derrida’s reasons as to why and how signs and interpretations are violent.

Smith makes way for his own position by asking: “what if being-in-relation were understood as a crucial aspect of being authentically human?... for if to be-in-relation is an aspect of being a creature, then it must be understood as a modality of creational goodness, of the goodness of creation. Rather than being always already dominated by the other, the Other and others are crucial to my being human” (101). At this point, readers who have interpreted Gadamer as a postmodern (and not as a "closet essentialist"), as well as those familiar with Ricoeur, will see nothing new or provocative in Smith’s proposal.

Smith claims that his own “creational model” of interpretation is “neither simply evangelical nor deconstructive precisely because it attempts to step ‘outside’ (inasmuch as that is possible) the paradigm ... of those models” (134). If the reader has not already raised an eyebrow, now would be a good time to start. Smith proceeds to describe his “creational model” by simply accepting (without critique, examination, or justification) Augustine’s affirmation of the goodness of creation.

Smith refuses to identify finitude with falleness or violence, and simply concludes that Augustine’s goodness of creation “thus ought to affirm the goodness of temporal, finite existence” (139). From this, Smith believes he has a solid basis for saying: “if finitude ... is constitutive of ... existence, and if such finitude demands an ‘experience’ of time as temporal succession, then would not time and language both be a creational good rather than something befalling humanity?” (139)

While this conclusion might be relevant and noteworthy for contemporary theologians, it would hardly be original or informative to the contemporary philosophical world (e.g., Gadamer, Ricoeur, Foucault, Eco, Levinas). What Smith proposes is no different than what Olthuis, Gadamer (e.g., in The Relevance of the Beautiful), and Ricoeur propose. Furthermore, what is most curious, considering Smith’s project, is the curious lack of attention to Ricoeur. Not only does Smith make no mention of Ricoeur’s hermeneutics, he also misconstrues the entire hermeneutic project. In one instance, he writes: “hermeneutics and the necessity of interpretation are aspects of only a fallen creation, a disrupted immediacy, from which we look for redemption in a paradise where interpretation is absent and immediacy is restored” (146). If it were not for Smith’s misinterpretation of the hermeneutic project, perhaps he would recognize that his own project is, in fact, mostly redundant and unnecessary.

All of this raises a larger problem with Smith’s book: he has neglected to answer his interesting and important question of whether faith language can be properly incorporated into philosophical discourse. In bringing a traditional theological problem of evil to contemporary philosophy, Smith finds himself pressed to argue that all aspects of creation, insofar as these aspects are created by a good God, must therefore be good. In trying to show that interpretation is a product of a “good” God, and in distancing interpretation from the notions of “sin” and “violence,” Smith’s text becomes entangled in the age-old debate on the existence and cause of evil—an issue relevant more for theologians than for contemporary philosophers.

Smith’s use of absolute conceptions of Good and Evil are a result of his faith in essential truths, rather than a product of his limited understanding of hermeneutics and deconstruction. The external (temporally autonomous and prior) Good that Smith utilizes is one that does not exist for the likes of Derrida, Gadamer, and Ricoeur. Not only does Smith fail to realize this, he also fails to offer an argument in favor of his own position. Instead, he simply cites his reliance on his faith, and is absolutely right to predict that this foundation—“that is what I ‘in fact’ believe”—will be “destined to be rejected by some as a lapse into ‘theology,’ and a rather naïve theology at that” (160).

Smith ends his book with a chapter filled with unjustified assertions, a dubious notion of fixed temporal points, and naïvely accepted dichotomies that are highly suspicious to a postmodern reader (e.g., accidental/essential, absolute truth/relativism, violence/good, inside/outer, before/during). Surely, such a
smorgasbord of presuppositions would turn any healthy postmodern green. What starts as a promising and interesting theological/philosophical examination, unfortunately, ends in a spiral of theological agendas, uncritically accepted presuppositions, an impoverished view of hermeneutics, and an unjustified application of faith language to contemporary philosophy.

TANYA DITOMMASO, University of Ottawa

**Zeit des Handelns und Möglichkeit der Verwandlung: Kairologie und Chronologie bei Heidegger im Jahrzehnt nach Sein und Zeit.**

FELIX Ó MURCHADHA


L’étude d’Ó Murchadh se présente avant tout comme un essai d’élucidation du concept de temps et des implications en ce qui a trait à l’act dans l’œuvre de Martin Heidegger de *Sein und Zeit* jusqu’au milieu des années trente. Le cadre de cette recherche est toutefois établi grâce à la mise en relief d’une constitution duale du temps qui se divise en *Kairos* et *Chronos*. Or, bien que Heidegger ait brièvement parlé de kairologie en 1922–1923, cette conceptualité n’est pas rigoureusement sienne, et si elle semble être d’abord formulée afin d’aider à l’intelligence de l’œuvre du philosophe, il devient rapidement manifeste qu’elle servira aussi à en faire la critique. Ó Murchadh prend de la sorte souvent ses distances par rapport à l’œuvre qu’il commente en se laissant également guider par l’esprit de certaines critiques déjà adressées à Heidegger par Arendt, Taminaux ou Lévinas. L’on constate ainsi que cette étude ne constitue pas simplement un travail d’exégèse classique, mais plutôt un effort de pensée autonome inspiré par Heidegger.

Nous savons ce que Heidegger, en ce qui concerne l’analytique du *Dasein* et de sa temporalité, doit à l’*Éthique à Nicomaque*. L’ouvrage de Théodor Kisiel sur la genèse de *Sein und Zeit* demeure à cet égard la référence obligée. On effet, afin de trouver des prédécesseurs à son ontologie du *Dasein*, Heidegger ne pouvait qu’être amené à la philosophie pratique (autant celle de Kant que d’Aristote par ailleurs), car leurs investigations théoriques étaient à ses yeux entièrement contaminées par une ontologie inexplicite de la *Vorhandenheit*. Hors du domaine théorique, là où la *Vorhandenheit* exerçait moins sensiblement son influence, risquaient sans doute de s’exprimer certains aperçus susceptibles d’être réappropriés par l’analytique existentielle. Ó Murchadh insiste à bon droit sur cette dette contractée par la conceptualité heideggerienne à l’endroit de l’éthique. La pensée heideggerienne de la résolution et du temps authentique doit en effet beaucoup à la conception aristotélicienne du *Kairos*. Ó Murchadh propose toutefois de thématiser l’opposition chronologie/kairologie plus rigoureusement. Cette opposition s’imposera ensuite comme la clé de voûte de toute la recherche de l’auteur et se montrera d’une fertilité étonnante. Afin d’expliquer le sens de cette opposition, Ó Murchadh se tourne le plus souvent vers celle qui confronte la discontinuité à la continuité. La chronologie viserait ainsi le règne de la continuité et la kairologie, inversement, le moment d’effondrement de toute continuité. De cette opposition découle de la sorte une suite de déterminations : le règne de la continuité est celui de l’ordre et de l’effectivité, celui de la discontinuité, du chaos et du possible. À cet égard, Ó Murchadh propose une conception intéressante du *Kairos* en l’exemplifiant par la révolution. Le moment de la révolution en est un qui brise la continuité de l’ordre établi et qui, dans l’espace qui lui est dévolu, fait régner le désordre, gros de la possibilité d’un renouveau où toutes les déterminations sont susceptibles de se voir renversées par la création d’un nouvel ordre et donc d’une nouvelle chronologie. Ó Murchadh, en voulant montrer comment s’articulent les deux versants de cette opposition, s’attaqua au problème de la mobilité historique en tant que telle. Si le premier chapitre du livre s’occupe de mettre en place et d’expliquer cette terminologie en montrant qu’elle peut jouer sur plusieurs niveaux dans une analyse des concepts clés de *Sein und Zeit*, le second montra comment la première opposition se lie à celle qui existe entre *Poiesis* et *Praxis* et comment elle correspond respectivement, bien que de manière nuancée, à la chronologie et à la kairologie. Le troisième chapitre indiquera que deux concepts cruciaux de la pensée heideggerienne, liberté et vérité, ne peuvent être pensés que de manière kairologique. Le quatrième, quant à lui, présente une analyse minutieuse de la conception heideggerienne de l’œuvre d’art, excellentement intégrée à la problématique de l’auteur, qui permet d’aborder l’important problème du fondement et, à travers la question du rapport entre pensée et poésie, celui de la possibilité d’induire un changement dans l’histoire, d’introduire une discontinuité dans la continuité. Il s’agira, entre *Praxis* et *Poiesis*, de définir la nature de l’agir. Si l’agir est simplement pensé de manière poétique, à partir de l’« œuvre », de la mise en place d’un ordre, le risque est de négliger l’absolue incertitude et l’absence totale de maîtrise qui impose le *Kairos*. Dans le cinquième chapitre, l’auteur se penchera sur le rectar de Heidegger et tentera de montrer que c’est par manque d’une entente des justes rapports entre *Chronos* et *Kairos* qu’il s’est fourvoyé, et également, à cause de l’ambiguïté de sa conception du travail de la pensée qui la lui ferait voir tantôt comme « questionnement » tantôt comme « œuvre » de pensée. Voulant « produire » sa pensée, la rendre effective, Heidegger oublie que la révolution est le temps de l’absolue indétermination et qu’une révolution, comme telle, ne se laisse pas rendre effective.

Plusieurs critiques sont adressées à Heidegger dans cet ouvrage dont la plupart sont des réétérations, bien que sur la base d’arguments parfois nouveaux, de critiques formulées à maintes reprises depuis la parution de *Sein und Zeit* : l’analytique existentiale se résoudrait dans un isolement du *Dasein* dont ne serait...
pas peu responsable le rôle que le philosophe fait jouer à l'être-pour-la-mort; Heidegger aurait insuffisamment considéré la nature de la Praxis, ce qui lui aurait également fait perdre le rapport à l'altérité. Or, rendre possible le rapport à l'altérité, c'est sans doute le souci constant de toute l'œuvre de Heidegger, mais il ne souhaite pas seulement et avant tout dégager le rapport à l'autre «humain», mais à l'altérité en général, donc à la nature comme à l'humain qui en fait partie. C'est là le sens de la question de l'être et il est très difficile de montrer que Heidegger n'a pas raison de dire que l'humanisme joue le jeu du nihilisme en également fait perdre a l'alterite. Heidegger aurait insuffisamment absolument donner une primauté au rapport entre les hommes. L'éthique et l'agir ne concernent pas que les hommes entre eux, mais tout ce que touche l'existence humaine.

En ce qui a trait à l'usage qui est fait dans ce livre du couple conceptuel Kairos/Chronos, l'on pourrait avancer qu'il est le défaut de rigidifier la conception heideggerienne du temps comme de l'agir. Et la pensée du philosophe ne s'y plie pas toujours volontiers. O Murchadha rappelle souvent que Heidegger n'a pas un concept clair de la Praxis. Ceci est tout à fait exact, car Heidegger n'a pas un concept clair de l'agir, ni même du temps. Il tente de mettre en question l'idée que l'on est fait jusqu'au l'un comme de l'autre. Or, c'est à partir d'une question sur l'essence du temps que Heidegger tente de rédiger l'essence de l'homme, donc de son agir. O Murchadha inverse le problème et broille une grande part de la compréhension déterminée de l'agir: telle est la compréhension du temps comme Kairos à partir de laquelle est négativement déterminée l'entente du temps comme Chronos. Cette manœuvre a pour mérite de clarifier la conceptualité heideggerienne, car elle semble permettre de réduire toutes les oppositions à une seule, mais c'est peut-être au prix d'une simplification. Ce qui n'est pas en soi qu'un défaut, car comme nous l'avons déjà fait remarquer, ce livre, s'il n'est pas toujours d'une grande prudence exégétique, a le mérite de déployer une pensée autonome et de se tenir ainsi librement au centre de problèmes philosophiques capitaux auxquels Heidegger n'a pas toujours su accorder son attention. Le couple conceptuel d'O Murchadha est par ailleurs manié avec grande maîtrise et se montre d'une systématique étonnante. Il est donc à souhaiter que, dans un ouvrage futur, l'auteur développe cette conception du temps pour elle-même en l'affranchissant de la pensée de Heidegger.

FRANZ-EMMANUEL SCHÜRCH

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Kierkegaard: A Biography
ALASTAIR HANNAY

Those unfamiliar with the biography of Søren Kierkegaard would perhaps expect that the life of the author of such texts as Either/Or, Concluding Unscientific Postscript, or The Sickness Unto Death would make for interesting reading. They will be disappointed. As Alastair Hannay himself acknowledges, “for a writer so concerned about life, Kierkegaard’s own life was a conspicuously uneventful one” (ix). Indeed, this is an understatement. Hardly the tortured, impoverished, and angst-ridden figure that has come down to us as the stereotypical existentialist, Kierkegaard’s inherited wealth made his life outwardly one of leisure and financial comfort. Hannay recounts, for instance, that during the events in Europe of 1848 “the most immediate impact [upon Kierkegaard] of the conflict so near home was that it deprived him of the services of his man-servant, Anders, who was drafted for military service” (371).

Kierkegaard’s life presents his biographers with a difficult question: What kind of biography is possible for a subject who lived essentially a writer’s life, that is to say, one that to all outward appearances lacked most of the usual, or unusual, episodes that constitute an interesting biography? Hannay’s answer: an intellectual biography. The philosophically interesting question then becomes, as for any intellectual biography, whether the biographical material, such as it is, sheds interesting light upon the texts. Hannay certainly attempts to draw connections where they exist between Kierkegaard’s life and his writings, but the attempt sheds little light for the reason that the life and the writings are essentially one and the same. While in the usual instance of intellectual biography, as Hannay remarks, “a reader who has reflected on the writer’s life may feel better placed to judge the claims people make for the writings” (439), Kierkegaard appears very much an exception. Outside of his writing Kierkegaard led a remarkably uneventful life, and the biographical material Hannay provides reveals little, if anything, that the careful reader of Kierkegaard’s texts will not have already gathered.

The major portion of Hannay’s book therefore consists of textual analysis—a very competent chronological analysis of all of Kierkegaard’s major writings, focusing where possible on their more personal dimension. Indeed, of the nearly 500 pages that make up Kierkegaard: A Life, a large majority is devoted to textual exposition. In the remainder Hannay discusses (very briefly) what little is known about Kierkegaard’s childhood, his family relations (primarily with his father and elder brother), and several important personages in the intellectual life of early nineteenth-century Copenhagen, where Kierkegaard spent his entire life.

The most significant biographical occurrence Hannay does recount is undoubtedly Kierkegaard’s celebrated engagement to Regine Olsen and the rather unkind manner in which he severed their relations, ostensibly out of religious
obligation. This is one of the few places in which Hannay’s skill as a biographer
is called forth, and he indeed recounts the course of their relationship and
separation with insight. Other episodes from Kierkegaard’s life that are worth
relating are few and far between, consisting in the main of rather trifling
occurrences apart from their subject’s unique, and often unbalanced,
interpretations. Indeed, it is here that what is genuinely interesting in Kierkegaard’s
biography is most apparent (one might say exclusively apparent)—not in the
outward events of this writer’s life, or even the course of his philosophical
reflection (for which one may read his books or the non-biographical scholarship
that already exists), but in deeper psychological waters into which Hannay does not
venture. Although the raw material for such a project is plentiful (beginning with
the omnipresence of death in Kierkegaard’s early life, a decidedly melancholic
temperament, and his frequent bouts of paranoia), Hannay plainly has no interest
in making Kierkegaard the subject of a psychological analysis, wishing instead to
remain on the terra firma of textual analysis and intellectual biography, yet the
price he pays for having done so is to have given us a work that is scarcely more
interesting than the life it recounts and less interesting than the texts Kierkegaard
left us.

In the end one cannot fault the biographer for the less than fascinating life
of his or her subject. Søren Kierkegaard was nothing less than one of the
preeminent writers of his time. He also was nothing more. If Kierkegaard: A
Biography is to be recommended at all, it is less for the biographical material
Hannay provides than for his chronological treatment of Kierkegaard’s texts, a
treatment that typically provides illumination upon the work of eminent thinkers,
this book being no exception.

PAUL FAIRFIELD, Queen’s University

Fenomenologia dell’essere umano. Lineamenti di una filosofia al femminile
[Phenomenology of Human Being: Features of a Female Philosophy]
ANGELA ALES BELLO

The increased presence of women in the recent history of philosophy has generated
a question hardly imaginable in previous eras of Western thought: Has philosophy
changed because of this increased presence, or has it remained the same, with its
traditional load of interrogatives and methodologies? Quite evidently, gender issues
flourished in the twentieth century, and in particular over the last thirty years, as a
direct consequence of the growth of feminism in almost all academic areas.
However, this is not what Angela Ales Bello chooses to deal with in her

Fenomenologia dell’essere umano. Instead, she intends to probe the influence of
female philosophers at a deeper level, namely at the level of reinterpretation of
“classical” philosophical topics. It is Ales Bello’s hope to be able to demonstrate
that women have brought about new philosophical perspectives within old
philosophical contexts, and precisely by virtue of their being women. She believes
that there is “a characteristic manner of proceeding in philosophical inquiry that
reveals a feminine attitude” (17).

Ales Bello focuses on phenomenology. She wants to show that Hedwig
Conrad-Martius, Edith Stein, and Gerda Walther contributed to the development
of phenomenological studies in a way that would have been impossible for their
male colleagues. In particular, she explores the reformulation of Husserl’s
discipline that these three authors achieved. Ales Bello takes Edmund Husserl as
the intellectual interlocutor of these three female philosophers for three reasons.
First, as Ales Bello is one of the foremost Italian authorities in the history of
phenomenology, her reader can thereby be assured of the reliability and accuracy
of her analyses. Second, she lets Husserl play the double role of a “classical”
philosopher revisited by women and a male philosopher revisited by women. Third,
Husserl represents a specific conceptual background that Conrad-Martius,
Stein, and Walther knew very well, and which they explicitly acknowledged as moving
beyond in their development of new phenomenological horizons. Husserl may thus
be regarded as a theoretical and historical filter through which their originality can
be tested, and their distinctive quality of being female can be detected.

Interestingly, the first chapter of the book deals with a crucial issue in the
history of Husserl’s philosophy—namely, idealism versus realism. It is with regard
to this issue that the phenomenological movement experienced a dramatic fracture
between those who followed Husserl toward an idealistic conception of
philosophy, and those who wanted to keep a firmer grip on empirical reality.
Among the three female philosophers Ales Bello discusses, Hedwig Conrad-
Martius is the one who most explicitly rejected Husserl’s approach. According to
her interpretation of Husserl’s position, he dissolved the ontology of the external
world by granting epistemological and methodological primacy to the logical space
of the subject’s consciousness, as if the empirical could be reduced to the logical,
invariant structures of experience within the subject’s cogitatio. While both
Husserl and Conrad-Martius thought of the cognition of the external world as a
collection of phenomena given to the subject via experience, Conrad-Martius
refused to deny any ontological autonomy of the empirical on the basis of mere
epistemological considerations. She was deeply aware of the enormous progress
achieved by the Naturwissenschaften since the beginning of the twentieth century,
and she did not want to ignore the input coming from these areas of research. Thus,
separating ontological and epistemological themes, she depicted the empirical as
a necessary precondition for the birth and evolution of the invariant structures of
experience, to which alone Husserl devoted his attention. Edith Stein and Gerda
Walther also affirmed the ontological autonomy of the external world against Husserl's phenomenological idealism, but in a less dramatic way. Instead of proceeding from the individual subject alone, they investigated specific experiences of intersubjectivity, with particular regard to the cases of empathy and religious faith. Through extensive phenomenological analyses of empathy and faith, Stein and Walther revealed the necessity of an ontological alterity—i.e., something external to the subject's consciousness—for the possibility of such experiences.

In the second chapter, Ales Bello highlights the contrast between these three female philosophers and Husserl by recalling Conrad-Martius' publications on the phenomenology of nature, in which she maintained that the external world should be granted complete ontological autonomy, equal, if not prior, to that of the subject. If any dependency of the empirical on the subject was to be indicated, she argued, this form of subordination was to be encountered exclusively at the phenomenological level. In this manner she rejected Husserl's own approach, which she regarded as endorsing an undeclared primacy of the subjective over the ontological.

The mood of the book changes in the third chapter, when Ales Bello outlines Conrad-Martius' and Stein's theories of the soul. Quite contrary to the role he played in the first two chapters, Husserl is now embraced as the preeminent point of reference, whose illuminated theories supply promising paths to follow. His typology of the soul, divided into a psychic activity (of the Seele) and a spiritual one (of the Geist), provides both Conrad-Martius and Stein with the general conceptual framework for their phenomenological analyses of the soul. That both were able to adopt this general framework is particularly striking when we consider that their inspiration in this particular regard derived from two quite different sources: for Conrad-Martius this was the psychological research of Jung and Jaspers, whereas for Stein it was the work of Bergson.

In the fourth chapter, Ales Bello sketches the main features of Stein's and Walther's phenomenology of community, once again turning a more critical eye on Husserl. While Husserl had hinted at the possibility of a sociological or political phenomenology (viz. the intentional character of empathy, the parallelism between the subject and the community, the relevance of social and historical habituations in the forming of the subject's structures of experience), both Walther and Stein were disappointed by Husserl's failure to articulate and elaborate this possibility in any depth. Criticizing Husserl's position as "solipsistic," or "egologocentric," the task of developing an actual phenomenology of community fell to Walther and Stein. As anticipated in Ales Bello's first chapter, one of the results of their analysis was the discovery that, from an ontological point of view, there must be more than the lone individual subject. In fact, they argued that the subject manifests the need for the presence of other subjects and for their mutual interaction (viz. empathy and love); besides, it is only in this manner that a subject can come to light, evolve and realize its own being-a-subject.

The fifth chapter discusses another theme already anticipated in the first chapter: religious faith. Not dissimilar to the cases of empathy and love, religious experience was also used by Conrad-Martius, Stein, and Walther to distinguish their position from Husserl's. Against the teaching of their mentor, they considered religion a topic worth analyzing using the instruments of phenomenology. This did not imply that philosophy was now to be seen as a courtroom for the mystical. On the contrary, as had already happened with Conrad-Martius' phenomenology of nature, the three phenomenologists opened the field to all the cultural realities that have characterized the history of the Western world, endorsing a pluralistic and thoroughly open-minded approach. Science, art, politics, religion, philosophy—all were said to be valuable areas with distinctive traits and specific assumptions, both epistemological and ontological. All these diverse fields of human inquiry could be combined with one another, while at the same time recognizing and respecting their independence and autonomy. Stein and Walther thus came to formulate a phenomenology of mystical experience, which they saw as philosophically acceptable insofar as it presented itself in the form of actual human experience that is in many respects no different from many other more trivial experiences.

Ales Bello's *Fenomenologia dell'essere umano* is a clear, learned, and synthetic sketch of the works of three major phenomenologists. But what does this sketch tell us about the female element that, according to Ales Bello, these philosophers introduced within the "classical" context of phenomenology? Ales Bello claims that "three fundamental moments can be enunciated: the kind of research, the specificity of the method and the prevalence of the topics" (17). In other words, the female element sought by Ales Bello is identified in the fact that these three women chose to pursue phenomenological studies, favored a realistic approach, and shared an interest in the realms of nature, community, and religion. Put in this way, however, the indication of something uniquely feminine in these three features sounds rather dubious. First, a number of male philosophers present the same set of characteristics (viz. Adolf Reinach, Jean Herring). Second, in the same historical period, other female philosophers pursued quite different research, using alternative methods, and preferring other topics (viz. Hannah Arendt, Ayn Rand). Third, and more radically, the categories employed by Bello are, in the end, too broad to determine conclusively whether Conrad-Martius, Stein, and Walther did in fact reconfigure phenomenological inquiry in a decidedly female manner. Nature, community, and religion, not to mention phenomenological realism or phenomenology, are umbrella-terms that are simply too broad in meaning to be employed convincingly in the identification of a typical female territory. Quite a number of male authors could be included under the same umbrella.

This problem becomes more obvious, and more serious, in the concluding section of her book, where Ales Bello offers a few remarks concerning the gender issue she is addressing. For example:
We cannot ignore ... that if there is a feminine sensitivity in tackling issues, in facing the solution of problems, this sensitivity can characterize some philosophical positions endorsed by women ... What we want to underline ... is that this change of attitude, programmatically proposed and actually maintained in the phenomenological analyses, is very congenial to the feminine sensitivity and henceforth appeals to many female scholars (189–90).

Appealing to a “feminine sensitivity” sounds like an attempt to defend a position that one knows to be weak—and indeed, there is a problem here. In order to identify some possible features of feminine sensitivity, we can return to Ales Bello’s Introduction, where she mentions Edith Stein’s work on pedagogy:

In general ... the female species is characterized by the unity of the entire bodily-spiritual personality, in which all potentialities are harmonically developed, whereas the male species tends to the elevation of single energies activated at the highest degree; hence a different attitude towards the real and a different direction of one’s activity follow (13).

Reading her reflections further suffices to make clear just how poorly founded Ales Bello’s thesis really is:

This does not mean, in the first place, that these characteristics are to be found only in biological female beings—they can be found also in male ones—and, in the second place, that the specific qualities so positively described are present in all women (13–4).

In order to avoid this problem, she might have restricted herself to the claim that Conrad-Martius, Stein, and Walther contributed in enriching the phenomenological movement in a general way, i.e., as philosophers tout-court. Together with a number of male colleagues, they allowed phenomenology to develop new dimensions of inquiry, beyond those acknowledged by Edmund Husserl. The philosophical genius of Conrad-Martius, Stein, and Walther, together with their sociological relevance in terms of women’s self-assertion, would have been enough to glorify their names. Bello is evidently dissatisfied with such a solution. Why does this glorification extend to their gender? I can only hypothesize an answer, of course. It is likely that she intended to help the development of gender studies, which only recently has gained strength in the Italian academic context, which has been generally more skeptical about these studies than the Anglo-American.

From a scholarly point of view, Angela Ales Bello’s book succeeds as an illuminating collection of historical and theoretical investigations of three great phenomenologists, and as such is to be recommended. But as a contribution to gender studies it is highly questionable.

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The Phenomenology of Modern Legal Discourse
WILLIAM E. CONKLIN

William Conklin’s The Phenomenology of Modern Legal Discourse draws on literature, case study, and continental philosophy to take contemporary legal language to task. Conklin is critical of the ways in which modern legal discourse negates litigants, and proposes in his book that the very language of the courts is responsible for undermining the people it professes to represent. The book is written for lawyers and law students, laden with citations, cross-references, and historical contextualization. Given its breadth and cursory treatment of the philosophers it discusses, it provides an expansive, albeit superficial, introduction to the continental tradition. At the same time, it cautions would-be lawyers to the potential travesty of their own profession. First-year law students and seasoned lawyers alike would be advised to take Conklin’s detailed and deftly outlined position into consideration, if only to understand the limitations of the juridical domain.

Like many writers of the phenomenological tradition, Conklin does not explicitly offer a normative assessment of that which he dissect. Rather, he picks apart the nuances of modern legal discourse to uncover what happens to the experiences of litigants when they are translated into language that is understandable to lawyers. He crafts a position that is part phenomenology, part critical theory, highlighting the semantic violence that the judicial branch inflicts upon the lifeworld. Though he does not condemn legal discourse outright, he issues a tacit warning for legal scholars and students about the potential imperialism of their field.

The book begins provocatively. The reader’s attention is first drawn to Franz Kafka’s K (from Der Prozess) as he meanders his way through the impenetrable channels of the convoluted German legal bureaucracy. K is the paradigmatic litigant, claims Conklin, insofar as he returns home one random day to discover that he has been issued a subpoena to appear in court. What follows for him is a tortuous route of self-discovery, in which neither K nor his legal advisors
can figure out exactly what K has done wrong, nor how to resolve the blizzard of red tape that ensues.

Conklin continues his explorations of modern legal discourse by posing what he takes to be their primary pitfall: that juridical language and legal discourse conceal suffering. His claim is that legal language, by masking and decontextualizing the real world experiences of litigants, dramatically debases human suffering and downplays the impact that such suffering has on their lives. His argument runs in fits and starts, but the point of his book is to chart the pathways through which the experiences of litigants become lost in legal discourse.

Conklin quickly differentiates “non-knowers” (those who have experienced some harm but are not expert enough in the nuances of the legal system to translate their experience into the appropriate terminology) from “knowers” (those expert in the nuances of the legal system but unfamiliar with the lived experiences of litigants). He lays out “paradigms of legal consciousness and legal language” by claiming that only knowers (judges, lawyers, paralegals and the like) are equipped with the linguistic apparatus to translate the language of non-knowers into juridically relevant discourse. This stark dichotomy runs through the text and provides the platform from which Conklin continues to criticize legal discourse and the court system.

He calls upon phenomenology to ask how and why the legal discourse of modern states conceals the experienced meanings of non-knowers. He suggests that non-knowers can neither know nor understand the language of authority without becoming experts in that language, and that the language of non-knowers is not incorporated into the language of juridical authority. For Conklin, this constitutes an incommensurability between the primary genre (a term he borrows from Bakhtin) of general interactive communication and the secondary genre of expert legal discourse.

Conklin demonstrates not only that the authority of legal discourse is incompatible with other, more experientially expressive, forms of interaction, but that legal discourse is self-substantiating. He exposes the entire legal system as little more than a back-patting Ponzi scheme where “professional knowers project their own institutional self-image into legal doctrines” (146). To support this claim, Conklin cites the writings of sitting judges who, in formulating their opinions, self-referentially invoke the authority of cases on which they themselves have ruled. Indeed, the explanation is condemning: if it is so that juridical truth is only as objective as the cumulative opinions of sitting judges, and if these judges are themselves the authors of the texts that they are interpreting, then judges act as sovereigns by decree, basing their opinions not on some externally validated legal spirit (as Conklin is wont to call it), but rather on their own fits and fancies. (This self-referentiality claim is itself curious, because the cases upon which judges have ruled stand as legal precedent, whether or not they themselves have relied upon them. Precedent is therefore intersubjectively supported across a broad spectrum of judicial rulings, but Conklin overlooks this point.)

However sympathetic the reader may be with Conklin’s general aim, one cannot easily ignore the way in which he unnecessarily denigrates realist pictures of language in general, and the secondary genres of experts in particular, as a means of criticizing legal language. He rails against objectivist, positivist, and representationalist pictures of language, preferring to speak of the socially constructed “heteroglossia” of dialogue, with the hope that dialogue will eschew the objectivating tendencies of symbolic recapitulation. He would like to locate justice in the shared experiences of multiple interlocutors, as if the “intertextual” experiences of all speakers can somehow help smooth out differences that are lost when professional knowers squeeze non-knowers into specified, disembodied cubbyholes.

But this points to one of the clearest problems in the book: it begins and ends with a false dichotomy, as if there were a clear distinction between knowers and non-knowers, as though litigants can make no sense of their representatives, as though real world experiences are reconstructed entirely by, and not mediated through, the symbolic transformations of legal discourse. Where Conklin endeavors to substantiate this claim by citing court cases and literature, he assumes the dichotomy in order to suggest its existence; the conclusions he draws are virtually encapsulated in the terminology that he uses. When he suggests that participants in the secondary genre of juridical discourse “speak past” participants of the primary genre, he dramatically miscarries Bakhtin’s speech genre innovations. Claiming that knowers and non-knowers speak past one another in the way that Conklin does suggests that they can make absolutely no sense of the suffering of the other, which quickly degenerates into a position in which they can make no sense of the words the other uses. This sort of extreme relativism is a classic pitfall of the literature to which Conklin ambitiously defers, and one from which he cannot easily escape. With his assumptions about the way in which knowers relate to non-knowers, and the subsequent loss of what he calls “embodied meaning,” Conklin is set to embrace wholeheartedly a position that regards all meaning as socially and experientially contingent.

The point here is that he uses the dichotomy to suggest that since the two parties (knower and non-knower) cannot understand one another, there must be something lost along the way (suffering), and that this loss must not be adequately represented in legal discourse. But he has based his conclusion upon a dubious assumption about language use—that there exist wholly incommensurable ways of communicating such that two interlocutors cannot come to an understanding with one another about what has happened without experiencing each other in dialogue. Conklin searches for anthropological evidence that this does happen rather than investigating the theoretical plausibility of this position. It is, of course, the case that any discursive relation will always leave issues unsaid and suffering unattended. This seems simply to be the nature of coherent discourse, and does not
necessarily imply oppressive monologue. Working to achieve any legal end, whatever that end may be, entails making editorial decisions about what story will be told to the courts, and it will almost always involve translating experiences into narrative accounts that resonate with the codified law. If this is what bothers Conklin, then he has only restated that which any neophyte paralegal learns within her first month on the job. On the other hand, if what bothers Conklin is that the language of pain and suffering is not to be found in the banter of legal scholars, then he must explain what it should be doing there in the first place.

This raises a related problem. In spite of the important criticisms that Conklin offers of the legal system, he never makes clear how legal discourse is meant to cope with suffering. It would be one thing if he were attacking the pillars of counseling, a discipline intent on remedying suffering. Perhaps Conklin then might have a condemning case—counseling would propose to remedy suffering and instead conceal it. But this is simply not so with the judiciary. Every lawyer in the world begins his prefatory hire-me speech with something akin to the following: “I’m really sorry that X has happened, but here are your options.” Lawyers make few if any gestures toward consolation. Instead they focus on settling conflicts, mishaps, and legal grievances between particularized agents by appealing to the generalized and codified law (hence the need for translation into a secondary genre). At higher levels of the judiciary, of course, they abstract from particularized citizens to pit generalization against generalization, legislation against constitutional foundation. But it is with the very lowest levels that Conklin primarily occupies himself, and here lawyers attempt to help non-knowers achieve an end, whether that end be reparations or justice. They do so by alerting non-knowers to potential recourse, not by suggesting that they will help them overcome their suffering. While it is true that much of the legal system is established to redress suffering and harms inflicted upon individuals, Conklin does not explain why justice cannot be done if an imperfect account of suffering is brought by particularized citizens to pit generalization against generalization, legislation against constitutional foundation. But it is with the very lowest levels that Conklin primarily occupies himself, and here lawyers attempt to help non-knowers achieve an end, whether that end be reparations or justice. They do so by alerting non-knowers to potential recourse, not by suggesting that they will help them overcome their suffering. While it is true that much of the legal system is established to redress suffering and harms inflicted upon individuals, Conklin does not explain why justice cannot be done if an imperfect account of suffering is brought by lawyers before the courts. Unfortunately, he also does not address the more basic question of whether the strategies and purposive rationality of legal bartering can fairly be considered communicative discourse at all. Even many discourse theorists recognize that communicative discourse need only be called into effect when there is a genuine crisis of understanding. Otherwise, linguistically seated strategic action is a means of accomplishing tasks; it is legitimate so long as it does not betray the interests of the communicative participants.

For all of its critical merit, the book is not without methodological flaws. Conklin treats such a multitude of philosophers that he cannot possibly cover any one of them fairly. He cites them as if they were scientists, each working independently on the collective project of coming to conclusive positions about the descriptive state of the world. His breadth of treatment prevents him from recognizing the conflicts endemic to the often disparate positions he cites. A short list of just the heavy-hitters will reveal his theoretical breadth and smorgasbord thinness: Derrida, Gadamer, Bakhtin, Foucault, Saussure, Merleau-Ponty, Barthes, Husserl, Heidegger, Levinas, Nancy, Weber, Zizek, Deleuze, Butler, Baudrillard, Lukacs, Hegel, Habermas, Spinoza, Kant, Descartes, Hart, Peirce, Schrodinger, Heisenberg...the list goes on. He uses their concepts as tools for building his project, but does little to demonstrate the important ways in which each theorist differs from the other. We are left with pithy recapitulations of their positions.

This raises a third problem with Conklin’s position. He spends so much time examining legal discourse from the standpoint of contemporary phenomenology, attempting to contextualize it within the entire history of philosophy, and thereby establishing his expertise in such matters, that he is guilty of stepping into an exclusive secondary genre himself. While his project may not conceal suffering, he nevertheless brings his own expert discourse to the table. The language he uses is so specialized as to require years of training in his particular brand of phenomenological, postmodern criticism. This would not be so bad except that his own assumptions about the incommensurability of speech genres prove too difficult for his entire project to bear.

Conklin’s is a laudable project, but one fraught with the possibility of sinking into extreme relativism. By taking on his task phenomenologically (as opposed to critically), attempting to plot the mechanisms that differentiate legalese from normalese, and thereby to cast doubt on juridical knowledge and expertise as a whole, Conklin gets lost in his own critique. He spends many pages referring to philosophers his primary audience is unlikely to have read or properly understood. He then leans heavily on a picture of meaning that depends on unique individual experiences—irreducible to linguistic codification, untranslatable over shared narratives. His position on language is condemning of all but a very specific form of shared dialogue, which undermines the point that he seems more intent on making. At times it becomes clear that he is less interested in the actual inner workings of legal discourse than in criticizing the ways in which non-knowers are left out of the picture. His book, it seems, is intent on making the point that legal discourse can be, and often is, oppressive. With this, one must simply nod in agreement.

So where Conklin begins, he also concludes. That is, he demonstrates what he takes to be primary to the secondary genre of legal discourse—that it conceals suffering—and then, by appealing to text, literature, and anecdote, shows how individuals can enter a lawyer’s office with serious personal concerns and exit with a portfolio of legal hieroglyphics. Like Kafka’s K, litigants may not understand how they arrived where they did. His book is thorough and his targets are certainly worthy of criticism. Conklin’s chosen path for this criticism, however, over-relativizes discourse. It is worthwhile reading for anyone seeking a better understanding of the pitfalls of legal translation, and perhaps even the devastating ways in which legal language can be used to maintain a grasp on power, but readers seeking a comprehensive and thorough interpretation of legal scholarship would...
do better to consult the original texts themselves.

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