

FIVE

**THE INJUSTICE OF JUSTICE:
FEMINIST ETHICAL REFLECTIONS ON
SUBJECTIVITY**

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Abstract:

Drawing on Adriana Cavarero's theory of one's voice, this article pleads for an alternative subjectivity to the independent subject as it is constructed within contemporary legal theory and retributive justice theories. It lays the theoretical foundations for an ontological conception of the self, which is capable of speaking in her own voice, inclined to others and thus for an epistemic, feminist and ethical justice, which is responsive rather than reactive.

Introduction

Epistemology is the way we acquire knowledge and through which we conceive ourselves within the world. We argue that the current hegemonic way within contemporary Western legal theory of approaching cognitively objects and others reveals the ontological thinking of our subjectivity as independent and vertical, which marginalizes our constitutive vulnerability, uniqueness, and relationality. The conception of justice on which the current liberal model is grounded, reflects the cuts and separations of such a constructed subjectivity. Human actions comply with such an ontological model and epistemic understanding of vertical and disconnected subjectivity. This produces hegemonic injustice within justice.

This article seeks to refute a hegemonic, cut and violent matrix of the Western liberal self and the related conception of justice by doing something rather unsettling: to think and imagine

oneself outside the constructed subjectivity of liberal approaches to justice. By contrast, it views oneself as a self in the vulnerable, dependent and material life of the community, by beginning to speak in one's voice. Hence, this article wants to think epistemically an ontological reversal of the absurdity of the violent Western criminal justice system and its entailed subjectivity. This article is essentially a feminist critique of the cognitive symbolic order and of the way feminism has approached subjectivity and justice in the past, thereby often reproducing the violence of patriarchy and law. On the contrary, it is argued that is possible to think ways to unlearn the construed hegemonic Western injustice of justice.

We will first discuss Judith Butler's epistemic and linguistic deconstruction. Moreover, we will be drawing in particular on Adriana Cavarero's focus on one's voice and Hannah Arendt's theory of action. In a next step, we explore ways of resisting and breaking with the ontological violence within the legal justice system and attempt to ground justice on a unique and corporeal selfhood, based on an awareness of vulnerability within a community of speakers, being capable of speaking in one's voice and acting unpredictably. As an example, we will focus on forgiveness as unexpected and unique actions, reflecting a non-sovereign agency.

Choosing forgiveness to end violence rather than punishment requires an ontological awareness of life as connection and interdependence, rather than as separation and independence and thus a subject who inclines rather than a subject who stands vertically. Through speaking in one's voice as imagined by Cavarero, one becomes aware of vulnerability and exposed to others, connected to oneself and the community and thus a selfhood that bends towards others. As a result, the idea of forgiveness challenges the hegemonic linguistic and cognitive approach to justice. We no longer talk of a sovereign and righteous subject who resents wrongful actions by means of revenge in order to re-establish balance. Rather, we talk of a vulnerable and relational selfhood that speaks in one's voice and contributes on

the construction of language and awareness/consciousness, beginning from one's voice.

The epistemic construction of objects is no longer given, reflecting a sovereign construction of oneself. On the contrary, if one speaks in one's voice, from one's own body in relation to other voices, a self becomes aware of its own vulnerability and reveals its uniqueness. Language is produced from one's voice and body and hence disrupts the hegemonic epistemic understanding of the world because the ontology of one's voice relates differently to oneself and to the world.

The ontological subject of the current criminal justice system is equated in this article to a subject of resentment, which is separated, cut, independent and disconnected from life. Intolerable and repressive conditions provoke in fact acts of resistance, since the subject wants to break free of those conditions. Yet, resistance may assume various forms. The most common form of resistance is precisely that, which reacts through resentment because, as Howard Caygill explains in his book *On Resistance* (2013, p.77), the logic of resentment builds upon a sort of Hegelian thinking whereby resistance is dependent upon what it opposes. Instead, it is possible to look for a resistance that does not just react to an intolerable situation but transforms itself as well as the original conditions. For Caygill, new ways of thinking the subjectivity of resistance and the capacity to resist are necessary elements of a resistance that breaks free from the past and opens up to the future. In accordance with the same line of thought, various scholars offer ways of resistance, which are based on a cognitive justice otherwise. Bonaventura De Sousa (2014) aims for instance to depart the Eurocentric perspective by offering counter-hegemonic understandings and uses of Eurocentric concepts; Jose Medina (2013) proposes epistemic virtues to contrast epistemic vices; Miranda Fricker (2007) considers epistemic justice as having the capacity to generate indefinitely *new meanings*; Elizabeth Anderson (2005) shows how epistemology can unfold the androcentric ways gender has influenced knowledge and enable an internal feminist critique.

We think that precisely one's voice resists a subject of resentment as well as its hegemonic understanding of the world. It rather affirms an ontology of natality, reciprocity, inclination, and forgiveness, thereby exploring new possibilities for linguistic, cognitive and epistemic justice (Cavarero, 2005; Arendt, 1958; Butler, 2010).

The Subject of Resentment within Retributive Theories of Justice

The Western criminal justice system is generally based on retributive theories of justice (Moore, 1993; Murphy, 2015). Retribution is committed mainly to the principle that those who commit wrongful acts deserve to suffer a proportionate punishment, because this is believed to produce several positive effects. It may deter future crime, incapacitate dangerous persons, educate people, reinforce social cohesion, maintain democratic stability and make victims of crime feel better by satisfying their vengeful desires. The philosophical and political idea of retributive justice has also played a dominant role in the construction of legal and political subjectivity within Western liberalism and law.

It is presupposed here that the current legal liberal subjectivity is essentially a subject of resentment, which is a subject thought as autonomous, righteous, vertical, separated and disconnected from oneself and the community. Yet, we attempt to resist such a vertical and disconnected subject with the speaking in one's voice, by reconnecting one to oneself and the community. Drawing on Nietzsche, some scholars have theorized critically on the subject of resentment (Brown, 1993; Deleuze, 1983; Cavarero, 2013). A subject of resentment is essentially a person that does not seem to be able to stop the pain of injury. It is paralyzed and reacts to wrongdoing with resentment. It is also a sovereign and righteous subject that needs to retaliate through mechanisms of retributive justice and has the right to speak and decide for others. It is a subject in search for retribution that looks outside itself for someone to blame and sees the other only for what the other has done and not for who the other is. The emotion of resentment gets

directed against the other, for it is the other that is the object of hatred.

A subject of resentment, similarly to a subject of violence, chooses to be a vindictive agent or a resentful victim. It embraces a cut, split, and divided subjectivity, in a state of emotional hatred. We think that violence is committed when one sees oneself separated from one's vulnerability and voice and that of others in the community. Thus, the legal subject – as a subject of resentment – continues the cycle of violence. We want to resist such a hegemonic and sovereign approach by reflecting upon the potential power of speaking in one's voice.

In her article "Wounded Attachments" (Brown, 1993, p. 340-410), Wendy Brown investigates the subject of resentment in relation to liberalism's failure of inclusion. The current liberal subject presumes to be universal, however, in reality it excludes many of those who do not reflect its liberal and middle-class standards. Such exclusions leave injuries and produce a subject of resentment. Likewise, Gilles Deleuze (1983), in his interpretation of Nietzsche, offers a critical understanding of the emotion of resentment (p.111-146). For Deleuze, the subject of resentment is a man whose consciousness is invaded by mnemonic traces, whose reaction consists of blaming the object that has caused suffering and who desires revenge.

Adriana Cavarero (2013) touches also the theme of the subject of resentment. In her book *Inclinazioni* (pp.118-130), she focuses on the vertical subject that egoistically becomes powerful, precisely when the other is punished, killed, or reduced to a horizontal position. In particular, she reflects on Elias Canetti for whom a survivor is a subject that stands upright, vertical, in front of a rivalling dead man who lies on the floor horizontally (ibid., p.118). According to Cavarero, this moment of revenge and victory makes the subject feel as if he had grown taller in his verticality and had also become invulnerable. He juxtaposes himself to the horizontality and vulnerability of his dead enemy (ibid., p. 228).

The subject survives violence by killing through resentment, following a logic of repeated violence, through a

vertical posture, as opposed to the horizontal posture of the dead man. The dead man becomes an opportunity for glory in the subject's egoistic verticality and invulnerability. What is missing for Cavarero in such a vertical subject of egoistic autonomy and violence is precisely some inclination, some attention to the other and oneself in terms of vulnerability, which is also the possibility of speaking in one's voice to others and revealing oneself. According to Cavarero, speaking in one's voice is indicative of inclination; it allows exposing oneself to others. One's voice, strictly speaking, is never the same but always plural, always revealed to others in many different ways.

Similarly to the subject of violence and resentment, a victim may also continue the cycle of violence. We may say that there is a discrepancy between surviving the wound of violence as a general legal subject or on a singular level of selfhood. As a legal subject, surviving violence means becoming aware of the offence of the injury, feeling resentment, pursuing retribution, appreciating when justice has been accomplished and punishment is inflicted to the one who has caused the suffering. By contrast, surviving violence – as connected to oneself and speaking in one's voice – means essentially getting on with one's own life, overcoming an identity as a victim, speaking about the injury, and especially releasing suffering and letting go.

The point that we want to emphasize is that retribution does not improve the conditions of the victim of violence, of the singular person who speaks in her own voice, but only of the general subject, which is in turn divested from oneself. In fact, achieving retribution can be understood as an effect of the cut subject, separated from oneself and the community of others. It is a result of trapping oneself in resentment, in the compulsion of victimhood, revenge, and desire for punishment. Hence, such a subjectivity does not allow movement, a letting go, but endlessly proceeds from wrong to wrong. Conversely, if one survives violence on a singular and vulnerable level, one reconnects oneself with one's body and with the community.

We can therefore say that there are two different levels of conceiving ontologically ourselves either by enacting injuries or being injured. We are interested in the possibility of speaking in one's voice, which is a dimension of reconnection that opposes the separation of resentment in retributive theories of justice. One's voice implies an ontology of the self as singular, corporeal and vulnerable, which consists of an unrepeatable who-ness, capable of unexpected actions. Forgiveness is one of such unexpected actions. This implies also an epistemic vocabulary of binding, vulnerability, and relationality for justice.

Quite the reverse, the ontology of the subject of resentment is part of the liberal righteous and vertical subject that often chooses to act and re-enact violence in order to restore a balance by punishing those who have committed injuries. This entails a subject that is ontologically cut and separated from one's uniqueness and corporeal vulnerability and an epistemic vocabulary that inscribes such a vertical and hegemonic thinking in theorising justice.

In the next section, we are going to deal with ways of resisting the subject of resentment through some streams of thought in feminist philosophy that critique the hegemonic epistemic construction of the subject and approach the ontology of subjectivity and justice differently.

Resisting the Subject of Resentment in Feminist and Gender Theories

In this section, we are going to explore a feminist way of 'being' that criticizes the epistemic sovereign approach to subjectivity and justice and resists the ontological subject of resentment. We are drawing in particular upon the theory of the voice elaborated by Adriana Cavarero, who emerged as a thinker during the 1980s. At the time, the Italian feminist movement was dominated by women's collectives and practiced an alternative feminist politics. These Italian feminists pioneered the creation of women's centres, where women separated themselves from masculine institutions and systems of thought. Cavarero has also been influenced by Luce

Irigaray, Hannah Arendt, and Judith Butler's political and philosophical works and she has been proposing an approach to feminist theory that is crucial to feminist discourse beyond the Italian context. Cavarero (2008) confronts women's exclusion, undoes the founding gesture of philosophy concerning subjectivity and rethinks the ontological script of Western civilization by foregrounding a different conception of political and ontological reality.

Some feminist scholars frame resistance in terms of reforms within the same ontological mechanisms of resentment in law and legal justice (Nussbaum, 2001); other feminists seem to explore resistance by means of reframing the epistemic construction of identity (Butler, 1993) and still others offer new ontological ways, disrupting the idea of ontology itself (Cavarero, 2005), while nevertheless not exhausting the open possibilities of resistance. This article intends to develop Cavarero's discourse on one's voice, connecting it to an ethical justice of unpredictable actions such as forgiveness. One's voice becomes here a sort of anarchic space for feminism and a space of difference, one that is foreign to the injustice of justice based exclusively on a sovereign subject.

For feminism and gender theory in general, the move of embracing the subject of law and rights and remaining within reformative framework contains potential problems in relation to gender-based violence. Espousing the legal subject implies that one holds on to the same cut subjectivity that is currently adopted in law and the rights discourse, the same injustice of justice, where violence is dealt with through mechanisms of separation and women are requested to feel the emotion of resentment and the desire for retribution. Thinking through the subject of law contributes to an epistemic and ontological re-theorisation of a more empowered Western and hegemonic feminine subjectivity. Conversely, by achieving a feminist legal subject, both the epistemic and ontological mechanisms of violence of the subject of resentment in law might be re-appropriated by feminism. In the

next section, we explore and critique the ways gendered violence is framed within the Western Criminal Justice system.

Gendered Violence as it is Framed within the Western Criminal Justice System: A Critique

Indeed, in order to resist the ordinary routine and gendered violence against women in all societies - manifest in everyday community life, in the domestic sphere, in war times as well as many other contexts of women's life – Western feminists and women activists have sought and achieved to make the hidden violence against women visible, by fighting for the inclusion of women within the law and rights agenda. We can say that Western feminism has fought constructively sexual and gendered violence. It has opposed an empowered feminine subjectivity to the standard and hegemonic masculine one through women's rights and legal reforms and has provided a valid critique of the masculine subjectivity.

Yet, we can also say that Western feminism has often remained trapped in the old ambush of the public male symbolic order. The achieved visibility of violence against women has not necessarily disrupted the epistemic and ontological way of approaching gendered violence. Oftentimes, the visibility of violence against women has not opened up the complex relationality and material dimension of violence. The categories, upon which law, rights, and justice sit have not been fundamentally touched, remaining thus mainly unchallenged.

In her article "Wife Battering and the Ambiguities of Right" (1995, p. 271-306), Sally Engle Merry explains for instance that in order to escape violence, a woman is requested to become a member of a subjectivity that might not be able to deliver its promises. Within Western law, rights, and legal justice, escaping violence may require a woman to follow some powerful and public traits of such a conceived masculine symbolic order through self-assertion, autonomy, toughness, the sacrifice of connection, relationality, and negotiation. This implies that women are thus encouraged to separate from violent relations by leaving those

threatening them with violence. For Engle Merry, abusive behaviour is constructed as crime and is subjected to legal punishment. Nevertheless, violence often takes place in everyday life in relational and familiar/familial contexts. As a consequence, it becomes necessary to resist violence by approaching it not just as an individual problem independent of the context (as Western law, human rights, and the liberal legal justice tend to do). Rather, it is necessary to rethink ontologically subjectivity and change as a result the epistemic and linguistic approach of resistance to gendered violence: Violence may need to be approached as a problem of the community and discussed in the context of the overall social relations between human beings and not be reduced to the victim-perpetrator relation (Foster, 2010). Violence is a problem among singular human beings who are however grounded within their community. A violent action is an action that trespasses others, their vulnerability and dissolves the community, leading to a breach of peace. Consequently, gendered violence needs to be seen as a problem of the community, which requires an ontological awareness of the self in relation to others and the community.

Subjectivity Otherwise – Seeking an Epistemic Reversal

We can now look at approaches other than the ones of Western law and rights, which both critique the current epistemic approach to subjectivity and justice and draw on an ontology of singularity, corporeality and birth – which escapes the epistemic and ontological sovereign and binary thinking of subjectivity. Some Western theorists such as Judith Butler, Hannah Arendt, Christine Battersby, and Adriana Cavarero offer for instance a way of resistance that deconstructs the approach to violence or escapes the logic of resentment by affirming positive ontological perspectives. This allows the epistemic conceptualisation and practice of new forms of subjectivity and solidarity that avoid the *terrain of the enemy*, the latter being a subject position that reacts to violence with ever more violence, and places oneself in a position of self-defence and attack.

Judith Butler on the Grievable Subject

It becomes paramount that one can speak and give voice to the violence suffered, talk about what has happened, what one has endured, what one has been suffering. The Western liberal subject of law and rights allows such a public speaking, where injuries can be denounced. But then - as Judith Butler has said in her talk on "Speaking of Rage and Grief" during the 2014 NYC PEN World Voices Festival - we need to be patient and stay with the unbearable sentiment of rage and grief after injuries and not continue the cycle of violence. It seems that Butler suggests that the legal way of approaching injuries must open up to a diversity of ontological and epistemic modes of acting and thinking. For Butler, it is necessary to be critical of the ontology of blaming and the resentment that characterizes the current Western legal justice system. Judith Butler has also written on the intelligible framework within which we are framed epistemically. In her deconstruction of the linguistic and epistemic injustice within which we are framed and constructed as subjects, the themes of vulnerability and precarity and their denial become central. In her book *Frames of War* (2010, XIII), Butler argues that the linguistic and epistemic framework not only regulates reality, but also participates in producing reality and thus materiality such as our bodies.

An important case in point is the injustice produced within the hegemonic frame, which leaves something cut out from it. For Butler, not all life is captured and recognized by the normative conditions of the frame. Rather, something exceeds the frame. "The frame does not simply exhibit reality, but actively participates in a strategy of containment, selectively producing and enforcing what will count as *reality*" (Butler, 2010, XIII). This linguistic and ideological frame is regulated by power and is able to dictate, which bodies count as living beings and which people enjoy liveability. We are made to apprehend that some people are vulnerable and others are not. While some people are grievable and are apprehended as grievable, some other people are reduced into inert matter and their numbers do not count.

Consequently, Butler attempts to explore the linguistic, epistemic, and normative conditions that sustain life: She considers life in relation to the norms and the socio-linguistic and political frames that it is embedded in. Vulnerability and precarity are seen in Butler as material aspects of our lives that are deeply interconnected with social, linguistic, and epistemic aspects. The latter sphere differentiates and distributes vulnerability unequally, hence producing a sort of injustice of justice.

Yet, Butler not only criticizes the epistemic frame of the sovereign subject. She also suggests that there are moments when the frame breaks down and there is a certain release of control. For Butler, leakages of the frame show the excess, namely, what is excluded and abjected. By repeating normative structures through bodily and linguistic acts, it is possible to find moments of failure of the system of forced constructions, and therefore, to *performatively* enact change and to make vulnerability equally visible (Butler, 2010, p. 165-184). Those aporias and leakages open up a space for rethinking subjectivity and justice, creating spaces for epistemic resistance.

To speak in one's voice resists the language already given to us and challenges its epistemic hegemonic violence. Precisely the voice allows the aporia of a corporeal and vulnerable singularity to challenge the linguistic and epistemic injustice of justice. One's voice makes sure that everybody counts and no one is treated as inert matter. By speaking in one's voice, one can never remain anonymous. When one speaks in one's own voice, the sound and vibration of one's uniqueness and bodily specificity are exposed to us and one's singularity of life is necessarily revealed. A unique voice, and thus life, occupies a space outside any categorising or hierarchy, not in relation to subjectivity but in relation to the exposure of speaking and the disclosure of one's uniqueness. It is precisely this sense of the voice that can make us resist. One's voice breaks with the cycle of violence because by speaking in one's voice one responds rather than reacts; there is response-ability, which is an ability to respond. One is responsible for one's voice that one owes and that constitutes the self – *who*

one is – rather than being exposed to given linguistic structures of domination. Therefore, one's voice presents a number of productive challenges to responsibility, challenges that have been elaborated upon in the work of scholars such as Emmanuel Levinas (1998), Jean Laplanche (1999), Jacques Derrida (1995), and Gayatri Chakravorty Spivak (1994, 1999). Those scholars have theorized on responsibility as stemming from the recognition of a fundamental vulnerability in the condition of being subjects and underlined the importance of the singular responsibility as opposed to the universality of law. In addition, Judith Butler (2005, 2006) has drawn upon the work of some of the above-mentioned scholars when theorising on responsibility in terms of her critique of subject formation.

Cavarero on One's Voice

Let us now turn to the work of Cavarero in order to elaborate more on the voice and its potential to critically rethink subjectivity. The focus on the voice, as theorized by Cavarero (2005), is grounded on a different ontology that begins from oneself and moves beyond stereotypes, the essentialized gender divide, and the hegemonic model of subjectivity. Each of us speaks in one's own voice, in a unique and singular sound. By speaking in one's voice, one reveals one's uniqueness and difference. Members of any sex or gender speak in a unique voice in relationality to others. There is no domination or desire to know or subsume the other but only the sharing of unique air and sound. Each of us counts and matters in her uniqueness and difference.

The ontology of the voice begins from the experience of a singular body in flesh and blood that can resist – beginning from such an ontological materiality – the subject of resentment and the related epistemic conception of justice. If, as Cavarero states in her book *Horrorism* (2009, p. 20), we are confronted with the option, either to care or to harm the other, speaking in one's voice leads to an opening towards oneself as well as others – to an ethical responsibility. As a result, the voice pushes towards care and connection, resisting the ontological and epistemic injustice of

justice. Although Cavarero has not focused directly on forgiveness in her work I argue that her vocal ontology points towards ethical actions such as forgiveness. Forgiveness relates to her thinking subject as being capable of inclination, as opposed to the egoistic, autonomous, and vertical subject. If someone speaks in his or her voice, one notices the vibration and the sound of one's body; we experience our vulnerability and the vulnerability of other speakers with whom we are communicating. In such an ontological context, the content of the communication is not as important as the uniqueness of the one who speaks, beyond any wrong committed. The voice is then linked to uniqueness, vulnerability, inclination, the community, and consequently to actions of reconnection and thus forgiveness.

Arendt and the Subject of Forgiveness

The relation between the voice and forgiveness reveals how Arendt's thought has inspired the philosophy of Cavarero. Similarly to Cavarero, in her book *The Human Condition* (1958) Arendt speaks of the uniqueness and *whoness* and theorizes a resistance to the sovereign subjectivity that breaks with vengeance and resentment. Arendt links uniqueness to natality, action, promise, and forgiveness. For Arendt, it is because of our uniqueness that we can act anew, bringing natality in the community. She sees forgiveness as the opposite of vengeance because forgiveness brings newness and unpredictability, whereas vengeance is a repetition of violence and remains predictable.

Forgiveness is unpredictable since it frees the person from the consequence of an act. Enacting forgiveness implies resisting the separations and divisions of the subject; inclining rather than being upright and vertical; becoming aware of one's vulnerability and the vulnerability of others. Forgiveness changes the influence of the past over the present and the future. In this sense, for Arendt, forgiving and promising are related categories of the political that can bring unpredictability and newness.

Battersby's Fleshy Ontology

The attention to vulnerability, forgiveness, the community and natality take us to the thought of another feminist philosopher, Christine Battersby, who - in her book *Phenomenal Woman* (1998) – has theorized the radical traits of the female body as an ontology of newness and natality. In *Le Philosophie Femministe* (1999, p. 100), Cavarero discusses the *metafisica carnale* theorized by Battersby, a fleshy ontology that begins from the act of being born and giving birth, which has been neglected by the philosophical tradition so far. As Cavarero argues, the philosophical tradition generally considers human beings to be already adults and independent. It thus fails to see and take into account the act of coming to life and being born that is visible in the female body. A woman that is giving life becomes central in Battersby's ontology of the flesh.

One is born by and is usually dependent on a woman and is not thrown in the world as a generic individual like the Western liberal philosophical tradition induces us to think. This dependence on a woman signs the beginning of an itinerary for the self. Battersby's philosophy becomes a philosophy of becoming, since becoming occurs in the flesh of a woman. The self is continuously becoming; it is never a unity, but rather a multiplicity. There is hence a subjectivity in Battersby's thought that is fluid and begins from the body of a woman; it moves and changes. The female body in Battersby unsettles the notion of identity as fixed, because it gives birth, or is born out of other bodies; the female body being an example of dependence of one upon another. Even-though Battersby's thought remains trapped within an essentialization of the feminine, her thinking of the female body disturbs the thought of the separated individuals evoked by liberalism. Rather, birth menaces any division between self and others:

Furthermore, there is also a more general inability to imaginatively grasp that the self/other relationship needs to be reworked from the perspective of birth – and thus in ways that never abstract from power inequalities, or from issues

relating to embodied differences (...). Theories of freedom and justice (...) treat individuals as if they were all equally rational, equally autonomous (...) as if, in other words, children and babies did not exist and we were all equally (simultaneously) mature. (Battersby, 1998, p. 2, 18)

Thus, the article suggests that the female body and the idea of dependence in Battersby offer an opportunity for a cognitive disengagement from the verticality of the subject, resentment, violence, and the injustice of legal justice. In particular, Battersby's fleshy ontology opens up the possibility for actions that connect to others and escapes the logic of violence in resistance. Yet, even though it can be argued that we can trace an essentializing discourse on women in Battersby's work that reverberates the metaphysics of the feminine - the same cannot be argued about the voice.

The voice de-essentializes the feminine traits, using them rather strategically to unfold them into the uniqueness of each one of us beyond any divisions or cuts. We can see that the focus on the voice disrupts binarisms. At the same time one's voice always happens in relationality and always reveals uniqueness and vulnerability. When speaking in one's voice, one reveals singular traits that are traditionally associated to feminine stereotypes but that, in reality, belong to all of us independent of our gender. Vulnerability belongs, for instance, to all singular and unique human beings and not just to the feminine. One's voice also connects one's body to the general and abstract production of language, providing an epistemic way of understanding our surroundings that comes from one's own body in relationality rather than from the general and hegemonic perspective of an imposed language. Thus a focus on one's voice challenges binarisms, essentializations and universalisms. Hence, we have distinguished two main feminist strategies of resistance: A first feminist strategy remains within the paradox of equality that is founded upon the righteous and sovereign liberal subject (Cook,

1994). The other strategy counter-opposes a powerful and sovereign feminine subject to the masculine subject (Irigaray, 1985). Seeking to move beyond both strands of feminism, this article argued for a feminist epistemic theory that attempts to explore ways to unlearn and break away from violent reactions to injuries and the consequent epistemic injustice imposed by retributive justice.

Choosing to be righteous and to dominate the patriarch/Man surely brings women to a level of equality and a position of good defence. However, it also reproduces the ontology and epistemology of violence of a subject of resentment and thus of an unjust justice system, a system where what counts is being righteous and separated from others. Ontologically and epistemically, feminism therefore must escape the violent thinking of both patriarchy and law, where women may only get killed or kill, be dominated or dominate. It needs to think of ways to resist violence without repeating violence, avoiding the appropriation and repetition of the same ontological and epistemic mechanisms used for patriarchal domination and entailed in hegemonic justice theories.

Conclusion: Challenges to the Criminal Justice System and Beyond

We have suggested along with Cavarero and her theory on one's voice that feminism can become a theory of difference from within; a feminism that moves beyond stereotypes, binarisms and essentializations. We are talking of a feminism capable of epistemically challenging violence and the injustice of justice by attempting an ontological reversal of subjectivity. The focus on one's voice and on forgiveness can resist the repetition of cycles of violence. In order to do this, feminism needs to rethink subjectivity, centring on a selfhood as singular, capable of being aware of vulnerability, of inclination, relationality and suspend the sovereign juridical frame. Such a selfhood does not resist violence by running away or fighting back, but rather stays clear, centred, connected to the self, capable to speak in her voice within a

community of selves. This is a selfhood that begins precisely from one's voice as the passing of air, breathing, producing a unique sound.

One's voice entails a suspension from the hegemonic language and cognitive understanding of justice that mainly focuses on standard political aspects of domination. On the contrary, one's voice allows the singular body to produce her own relational justice, coming from the margins. The voice allows suspension from reactive violence; it is as a movement of resistance that takes place from a singular, defiant, and everyday experience. Through speaking in one's voice, the selfhood does not resist violence by reacting through resentment but is able to respond in terms of forgiving and promising, to move away from the past and embrace the future. It should be noted that a forgiving selfhood does not imply a weak feminine subjectivity but a strong one; one that is able to withdraw after the injury, become aware of the experience of the injury, delimit the experience of the injury, face as well as speak of it, discern it, and finally to let go, tolerate and accept.

Indeed, when one speaks in one's voice, one breathes and shares air with others and in doing so, one does not need to struggle with others. Speaking in one's voice is also speaking together with other voices in a polyphonic community. When we speak, we expose ourselves to others and we are exposed to others in our vulnerability. Forgiveness becomes a necessary action within such a community of sharing. Forgiveness is the power to break away from the cycles of violence by embracing natality in human relationships. Along with Cavarero, Butler, Battersby, and Arendt, feminist and gender theory must value the maternal not as a stereotypical feminine trait but as a critical and constitutive way of thinking vulnerability and natality beyond the hegemonic symbolic order. Vulnerability and natality (in the sense of newness) become intrinsic elements that are able to unsettle philosophical models of subjectivity and justice.

By embracing a selfhood that speaks in one's voice, with uniqueness and forgiveness, feminism could show empathy to

what is foreign, fearsome, even repugnant, and engage, rather than disengage, with others. This would signify a feminism that does not obligate or morally judge the offender, but transforms relationships, and offers compassion for the other's confusion, distortion, and failure. It is a kind of feminism that views vulnerability otherwise and challenges the epistemic understanding of established notions of justice. As such, feminist action becomes an ever-present reminder that people will die but that, as Arendt suggests, they are not born to die but to begin.

Unfortunately, we are so much immersed in practices of violence that we believe they are inescapable and cannot be unlearned, and therefore, that feminism must continue to use the master's tools and its justice system. Thanks to restorative justice, forgiveness may find some space in the criminal justice system. Restorative justice already shifts the focus of criminal justice from incarcerating offenders to holding them accountable in meaningful ways by showing a concern for the needs of victims and communities (Lerman, 1999 and 2000). Restorative justice makes use of tools such as victim-offender conferencing or dialogue, allowing victims to understand an event, assess it, and open up to the possibility of forgiveness.

However, it is only if restorative justice is thought within a space of flexibility that one's forgiveness can be possible. The forgiveness of one's voice springs from within, from a practice of relationality and a singular awareness of vulnerability and cannot be simply facilitated and induced within calculated actions by institutionalized structures of law. On the contrary, legal institutions usually require a logic of exchange that is in conflict with forgiveness, which stems from one's uniqueness. A focus on one's voice leads to acting and speaking in unpredictable ways, because one speaks from within, from one's own awareness. It is precisely this detachment, this suspension in a non-institutionalizable position that makes the vocal resistance strong, centred, and effective

Finally, I would like to suggest that the aim cannot consist in the tout court integration of one's voice within law and its

justice system. The feminism of one's voice as a theory of difference offers a radical ontological possibility of being and acting in the world that cannot and does not want to be mainstreamed within the legal justice system as it is nowadays. Yet, the ontology of one's voice can be a singular ethical practice that comes from life, runs parallel to law, and challenges the present legal justice system.

A focus on one's voice could find space within a thought-provoking form of restorative justice, one that operates precisely in terms of openness, allowing one's forgiveness to develop beyond any conditionality. More generally, one's voice can push legal institutions to become critical of themselves, providing a broader perspective and contributing to epistemically unsettle the hegemonic approaches to justice, making justice more just.

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