

J.M. Bernstein. *Torture and Dignity: An Essay on Moral Injury*. University of Chicago Press 2015. 408 pp. \$50.00 USD (Hardcover ISBN 9780226266466).

Bernstein's contribution to the philosophical literature on torture is unusual in that it is not primarily an exercise in practical ethics; it is for the most part an essay on moral injury and a critique of conventional moral theories. Bernstein's goal in discussing torture and rape is to refocus morality on the experience of human suffering and our vulnerability before others. Readers looking for detailed discussion of the intricacies of ticking bomb scenarios, the worrying reappearance of state sponsored torture, or the impossibility of purely interrogational torture should be advised that, although these topics are touched upon to some extent, the focus of the project means these questions receive expeditious treatment.

Bernstein's book is divided into two parts. Part 1, *History, Phenomenology and Moral Analysis*, is comprised of three chapters which trace the history of the prohibition of torture, describe torture from the victim's perspective, and argue that torture and rape are similar forms of moral wrong in that they both involve devastation. Part 2, *Constructing Moral Dignity*, is the more theoretical of the two parts. In the four chapters that constitute it Bernstein provides a conceptual framework to incorporate the insights derived from his account of torture and rape. In doing so, Bernstein provides a theory of recognition, a discussion of how being recognized as a person translates into a basic normative attitude of trust in the world, and an account of dignity which does not ignore the fact of human embodiment.

Chapter 1 is devoted to the history of the abolition of state sponsored torture. Bernstein argues that in the second half of the eighteenth century a radical social transformation took place. Pain was no longer perceived as metaphysically significant or a means of penance. Pain came to be understood as residing in the individual, constituting 'a blunt experience of what should not be' (29). Pain being seen in a new light, the law could no longer derive its legitimacy from the infliction of it, an insight Beccaria used to provide an account of the legitimacy of law premised on the disavowal of sovereign power and corporal punishment. Bernstein takes this to mean that the legitimacy of law requires taking the citizen's body to be inviolable.

In Chapter 2 Bernstein, using Améry's account of his torture at the hands of the Gestapo, argues that 'torture intends devastation' (76), where devastation is the specific harm of 'being undone in one's standing as a human' (75). The torture victim reacts to the excruciating pain inflicted upon him; he does not act. The intrinsic connection between being in pain, and acting to avoid the pain, is broken by the torturer. By destroying this connection, the victim's status as a person is destroyed (101). Torture, by showing us that our status as a person depends on recognition by others, and explicitly denying the victim that recognition, destroys trust in the world (114).

Having provided a description of the harm of devastation, in chapter 3 Bernstein turns his attention to establishing a parallel between rape and torture. Bernstein uses Susan Brison's account of her rape and near death to establish that, rape, like torture, is devastating. Both acts 'render the victim existentially helpless', showing them to be 'utterly dependent for their human standing on this very one who is not recognizing them' (172). For Bernstein, rape is more than non-consensual sex in the same way that torture is more than the infliction of pain. The injuries inflicted are more than physical. They injure the individual's status as a human.

Having explored the phenomenology of rape and torture, in chapter 4 Bernstein develops a Hegelian account of the self to elaborate on the process of recognition. As we depend on others for our status, we are vulnerable and open to humiliation and devastation (193). Chapter 4 also provides a more detailed discussion of the distinction between having a body (voluntary) and being a body

(involuntary) arguing that self-awareness requires we set our involuntary body (the body which excretes and feels pain) in relation to our voluntary body (the body that acts). Establishing a socially appropriate relationship between these two aspects of our embodiment (manifesting self-awareness) is necessary for being recognized as having the status of a person (212, 295).

Chapter 5 explores the notion of trust in the world. Trust 'is a cognitive attitude that anticipates that the other will have and display goodwill toward me under conditions in which I am vulnerable' (225), which is the 'primary, defeasible condition of all social interaction' (233). Without trust, contracts cannot get off the ground. This provides Bernstein a reason to doubt the consistency of social contract theories. Trust is as pervasive and foundational in our world as it is invisible (228), becoming noticeable only when it is lost, as it is for the victims of torture and rape.

In Chapter 6, the final full chapter, Bernstein draws the complex interlocking discussions together into an account of dignity. Drawing on Améry's account of his torture, Bernstein argues that dignity is necessarily related to embodiment, lovability and self-respect, thus distancing himself from Kantian accounts. Dignity is a social achievement which occurs through another recognizing one as human (298). Dignity is necessarily embodied for two reasons. Firstly, achieving dignity requires establishing a relationship between the voluntary and involuntary bodies. Secondly, dignity must be embodied if we are to explain why we feel disgust at the burial of the emaciated bodies of holocaust victims.

Bernstein uses his 'Concluding Remarks' to discuss how a morality which is distanced from the actuality of human suffering creates a form of moral alienation. Bernstein uses the prevalence of rape, the appallingly low conviction rates of perpetrators, and the persistence of rape culture as evidence that a rule-based morality fails to account for the wrongness of rape (126, 324). Perceiving rape as merely non-consensual sex obscures the devastation it involves. Focusing on the suffering of a victim allows us to fully acknowledge the moral injury inherent in rape which should, in theory, lead us to condemning rape more emphatically and consistently.

Having provided a summary of the main argument in the book, two critiques of Bernstein's book are in order. Firstly, it is a shame that in a book which attempts to demonstrate the importance of basing morality on the experience of human suffering, relatively little attention is devoted to elaborating exactly how the theory Bernstein develops is superior to competing accounts. This is a shame precisely because Bernstein's account has more to offer. His discussion of how recognition as a person is partially dependent on an individual resolving the tension between the body-they-are (the involuntary body) and the body-they-have (voluntary body) in intelligible ways could, for example, help explain why people who resolve this in 'non-standard ways', such as transgender people, are sometimes denied full status as persons, suffering degradation and humiliation.

A second example of this problem occurs when Bernstein makes a place for rules and rights on his account. Rules, Bernstein claims, are 'a heuristic summary of the indefinitely reiterated pairwise sets of X recognizing Y as a person' (269). If rule-based moralities are inadequate due to the fact they distance us from the particularities of experience, Bernstein owes us an account of why his conception of moral rules as useful heuristics does not fall prey to the same objection. Similarly for the notion of rights. On Bernstein's framework, the meaning of each of us having dignity is given specific meaning in the notion of rights (266). How we avoid the tendency to move away from the particularities of human suffering whilst still giving rights an important place in our morality, is unclear.

The second critique concerns the complexity of the prose. Over the course of the discussion Bernstein develops numerous complementary strands of argument which run parallel to the main thesis. The interactions between these lines of argument and the main thesis are, at times, hard to

grasp. The introduction of both new and uncommon terminology (which is left relatively unexplained) giving the prose an impenetrable quality which makes it hard to fully perceive the implications and justifications for some of the claims. This is especially true if one is not particularly familiar with the work of authors such as Hegel and Butler (authors the comprehension of whom is not aided by complex prose). Readers who are more analytically minded might find some of the discussions heavy-going and frustrating at times.

However, notwithstanding the lack of clarity in the prose, Bernstein's book is a complex and enigmatic discussion of torture and rape which, although it leaves questions unanswered and lines of argument underdeveloped, includes an interesting phenomenology of embodiment and argues persuasively for its importance for an account of dignity. Even if one disagrees with the particulars of Bernstein's theory, his exhortation to focus on human suffering should not be ignored.

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