Rights after Heidegger: Phenomenologies/Hermeneutics of the Event in Heidegger, Voegelin, Badiou, and Marion

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In this paper I attempt to show that the works of Martin Heidegger, Eric Voegelin, Alain Badiou and Jean-Luc Marion all inhabit a similar milieu that, for crude shorthand, I will label phenomenologies or hermeneutics of the event. These phenomenologies deconstruct the modernist project and the very foundations of traditional "Western" notions of rights and yet few writers have explored how they open up new ways of thinking about human rights. This is all the more surprising when one considers that Western notions of human rights themselves have recently been attacked for their reliance on Enlightenment or modernist notions of subjectivity, epistemology, and ethics, just those elements undermined by the phenomenologies of the event.

Each of these thinkers agrees with Heidegger's later project by attempting to find the 'things themselves' in the experience of the event, an experience that undermines the autonomy of the subject and its self-assured knowledge. Though each of these thinkers emphasizes the singular event they also explore ways that this "subjective" experience can be universalized to affect the political world. Indeed, politics and the event are irredeemably intertwined.

Rarely if ever, have these thinkers been compared in the same paper and Badiou's and Marion's thoughts are new to most political scientists, so I will expound upon their thought in some detail and only at the end of the paper briefly discuss the implications for rights theories. In order to further keep the scope of this paper manageable, I will concentrate on a few works by each thinker especially those that manifest their commonalities.

Heidegger and "To the Things Themselves"

It has become commonplace to credit Heidegger with leading a re-thinking of modernist notions of subjectivity, epistemology, and ethics thereby ushering in the various strands of

postmodernism. Heidegger's great accomplishment is often considered to be his re-situation of the self in the world through his emphasis on being-in-the-world, thrownness, being-with others, being-toward-death, etc. If Dasein is always already thrown into the world, then Dasein is in no place to observe the world from an Archimedean point or develop a systematic methodology to com-prehend the world. Throughout his corpus Heidegger examines new ways of journeying to the things themselves; ways that can found in the history of thought, but were never adequately thought (*Cf.* Mehta 1971, ix-x). These journeys must be undertaken but Heidegger was aware that they most likely would never be completed. In this essay, I will enlist Reiner Schürmann as a trusted guide to follow Heidegger's path and then I will end with Heidegger's late essay "The End of Philosophy and the Task of Thinking" and its re-thinking of the Husserlian call "to the things themselves" (*Sachen selbst*).

Husserl's thought must be transcended. Though he had "worked out the phenomenality of being in the category . . . he has not questioned the identification of being with consciousness, nor, consequently, that of time with constant presence. . . . Everything that is, and notably the object of intentionality, is in consciousness, present to consciousness. To be is to be represented" (Schürmann 1987, 68). Schürmann, in his important work *Heidegger On Being and Acting: From Principles to Anarchy*, traces Heidegger's attempts at overcoming this obsession with presence and representation through three stages.1 [1] "First, by passing to existential phenomenology as fundamental ontology, then by passing to the phenomenology of

1 [1] Here I eschew several recent controversies in Heideggerian scholarship, i.e., whether and where there was a turn or reversal (*Kehre)* in his thought and the haggling over translations of such key terms as *Ereignis* and even *Dasein* (see Sheehan 2001).

historical aletheia, and lastly by attempting a topology of the event. The first metamorphosis of phenomenological transcendentalism leads to the replacement of the subject by Dasein, the second to that of Dasein by *Menschentum*, the third to its replacement by an even less subjectivist, humanistic, existential word: thinking" (69).

To elaborate: first, with the neologism Dasein, Heidegger in *Being and Time* moves beyond an emphasis on consciousness to an emphasis on the relationship between the subject and being itself, and as a corollary, instead of a consciousness that perceives objects, Dasein is a being that is already with objects. So truth is no longer reliant on the structure of consciousness and the accurate representation of objects, but is based upon Dasein's "resoluteness" (Sch�rmann 72).

Second, Heidegger moves from an emphasis on Dasein to Menschentum after *Being and Time.* Heidegger came to realize that *Being and Time* does not break far enough away from Husserl, in that truth is still reliant on the subject and its consciousness. "Being in the world, just like eidetic knowledge (Husserl's), is constituted by the unfolding of characteristics proper to man. Being-in-the-world, just like knowing, belongs to the domain of our own potential" (73). In this second stage "it is no longer man who 'opens up' a clearing, who projects' light over entities, who resolves the world by revealing it, but historical aletheia which constitutes man by situating him" (73). Truth, for Heidegger becomes rooted in historical epochs in which Dasein, objects, and language are mutually present. "Each collectivity, each Menschentum, finds its locus of truth assigned to it. Its destiny consists in having to respond to the constellations of presence instituted by an epoch" (73). The phenomenological project is still a "search for the conditions that make manifestation possible as well as the quest for an a priori. But these conditions and the

a priori henceforth are not situated in man" (p. 73). To move "to the things themselves" requires an altethiological thinking of ecstatic temporality that thinks beyond linear time.

But Heidegger moves one step further, to a third stage where he will retain a notion of epochal history but with a renewed emphasis on the "economic coming-to-presence" (74). Heidegger now thinks how truth "dispenses itself to thinking which corresponds to it by abandoning itself to such constellations" of those things that are concealed and unconcealed (75). Dasein's stance is no longer one of making or projecting, but is now an attitude of releasement or letting-be. This releasement will require a new way of thinking about thinking. For example, in his late essay "The End of Philosophy and the Task of Thinking", Heidegger meditates on Husserl's "principle of all principles;" that "every originarily giving intuition [is] a source of legitimation for knowledge; everything that presents itself to us in the ◆Intuition' originarily (in its bodily actuality, so to speak) [is] simply to be accepted as it gives itself, but also only within the limits in which gives itself there" (Heidegger 1977, 382). Heidegger claims that Husserl has overlooked the givenness of being in his own "principle" and "thus transcendental subjectivity proves to be the sole absolute being" (382). In his call to the things themselves Husserl overlooks the light that allows beings to come to presence. In fact, all of philosophy since Plato has emphasized outward appearances, a form of presencing, and not the opening itself. Heidegger writes, "only by virtue of light, i.e., through brightness, can what shines show itself, that is, radiate" (383). Heidegger ends this essay with more questions then answers and with a tempered pessimism for the task of philosophy. He asks if thinking can "ever raise the question" of aletheia "as long as it thinks philosophically" (389) that is, as long as it concentrates on a metaphysics of presence. Here Heidegger only provides the briefest of all maps for the way

beyond thinking the metaphysics of presence. He asks "what speaks in the ❓There is / It gives" (392).

I contend that the projects of Voegelin, Badiou, and (most overtly) Marion take up this challenge of thinking differently and seeking to answer "what speaks in the ❓There is / It gives"? More specifically, they each attempt to move philosophy beyond a "metaphysics of presence" through their phenomenologies of the event. In each we will see common themes of exteriority and surprise beyond intentionality, truth as historical process, and universality grounded in a concrete singularity. Finally, each claims that modernist notions of metaphysics and epistemology are rooted in stasis, while their thoughts aims to open the time axis of the event.

Badiou and Voegelin on the Pauline Vision/Myth/Fable

Alain Badiou fits nicely in a long tradition of French thinkers such as Althusser and Foucault who distance themselves from the hegemonic thought of the day. In this case, Badiou, while relying on many of the prevailing theoretical foundations such as Heidegger's and Husserl's thought, distances his work from the turn to ethics and moralism found in thinkers such as Levinas and Derrida. His magnum opus *Being and the Event* builds upon mathematics, especially set theory, to claim that the ultimate subject of philosophy should be ontology and ontology should be explored as a series of events made up of an infinite number of iterations of elements. Thus, following Heidegger, the subject appears at any given time in a space populated with other beings. Badiou stresses the aleatory way that sets appear and disappear. Instead, of one overriding Being, the subject is thrown together into "a situation" (or, in his most recent works, a "world") with multitudes of beings that change throughout time. Each situation is a

singularity, that is, a set of elements, but also an irreducible multiplicity. For Badiou this ontology can be best represented through set theory and mathematics. He says, "if we abstract all presentative predicates little by little, we are left with the multiple, pure, and simple. The ⊠that which is presented' can be absolutely anything. Pure presentation as such, abstracting all reference to ⊠that which'⊠which is to say, then, being-as-being, being as pure multiplicity ⊠ can be thought only through mathematics" (Badiou 2001, 127). Or, in quasi-Lacanian terms, to understand being-as-being, one of the main tasks of philosophy is to abstract the situation to the point where the ideal and the real are identical.

However, Badiou's recent analyses of the event have followed a much less formalistic trajectory by exploring concrete events. He stresses that the subject is always already in a situation which has its own language or truth structure that overlaps and interacts with language or truth structures of other situations. Most importantly, some situations stand out. When previously uncounted elements "come to appear as needing to be counted in the situation" (Badiou 2001, 133-4) then we have an event. Badiou uses the phrase "laicized grace" to refer to how surprising events are given to us from "somewhere." Laicized grace refers to that which breaks out of the Hegelian Absolute and breaks out of the law of the situation, but Badiou wants to "tear the lexicon of grace and encounter away from its religious confinement" (Badiou 2003, 66).

By emphasizing the radical break announced by an event and its aleatory and laicized nature Badiou's philosophy highlights subjective truth and subjective agency. Truth for Badiou is fidelity or resoluteness to the experience of the event while the subject has no essence, but only "comes to be constituted as a capacity for truth." So, "a subject is of the order, not of what

is, but of what happens ◆ of the order of the event" (Badiou 2003b, 73). A subject becomes constituted by the event, or more accurately, by the subject's response to the event. Those who are touched by this laicized grace are not merely passive they are active participants in the situation. Badiou approvingly quotes Lin Piao "that the essential thing was to be, at a revolutionary conjunction, both its actor and its target" (Badiou 2001, 125).

It follows then that the "we" is constituted (or not) by the event or at least the "process of truth" manifest in the event. But, since truth is a production, the content of the truth loses importance. After the event, there will often be no agreement as to the truth of the event. After all, "nobody is in a position to say that since he knows the truth, he is the one who will decree how it is to be known, since the truth itself depends on its own production" (Badiou 2001, 116-7). So, basically we end up with a political/deliberative process and in each organization or multiple the truth structure will vary. Necessarily in the truth procedure subsequent to the event a differend will develop. The previous truths of the previous situations will contaminate the new truths but it is up to the militants of the event to explore new ways of symbolizing the truth of the event so that it endures. Even if it endures, the symbolism will not quite match the truth in the event, because of an epistemological differend. The symbolism will be rooted in a continuous time while the event belongs to what Heidegger would call ecstatic temporality.

To summarize in somewhat more colloquial terms: if an event occurs, and no one in the forest answers its call, then the event is forgotten. And, seemingly if a human spends his or her entire life without responding to an aleatory event or engaging in its truth procedure, then he or she does not become a subject. Further, if an event occurs and is subsumed by the language of the current situation, then it is not seen as an event and will not have its full liberatory effect.

St. Paul and the Truth of the Aleatory Event

With such an emphasis on aleatory events and how a collective truth creates a "we" it is not too surprising that even a devout atheist like Badiou would devote a short book to St. Paul. And not surprisingly, his *Saint Paul: The Foundations of Universalism* is hagiography of a different sort. Badiou writes, "for me, Paul is a poet-thinker of the event, as well as one who practices and states the invariant traits of what can be called the militant figure. He brings forth the *entirely human connection*, whose destiny fascinates me, between the general idea of a rupture, an overturning, and that of a thought-practice that is this rupture's subjective materiality." (Badiou 2003, 2, *emphasis added*). Paul is as an exemplar for a militant that took on an existing universal order and created a new, entirely human' truth "diagonal" to the prevailing ideology. Thus, he is the very type of militant needed to counter the current universality of global capitalism. According to Badiou, all previous attempts to oppose global capitalism such as communitarianism and identitarianism were co-opted and/or devoured by capitalism and made it stronger. Instead a new truth must be proclaimed and thus we need a figure like Paul, who is able to universalize a singular event to overturn the prevailing discourse.

The event on the road to Damascus was aleatory *par excellence*. It was an event in Badiou's terms in that "nothing leads up to it. . . it happened,' purely and simply in the anonymity of a road" (5). This event stripped the subject of all previous identity and challenged all previous epistemologies. Paul is challenged afterwards to search for the best "law" by which to universalize this event because his event is something new that cannot be constrained by Greek or Jewish discourse. "Grace, consequently, is not a moment of the Absolute. It is affirmation without preliminary negation; it is what comes upon us in caesura of the law. It is

pure and simple encounter" (66). But, for Badiou, this grace should be stripped of all theological predicates, Paul's event is an example of a "materialism of grace" which Badiou describes "through the strong, simple idea that every existence can one day be seized by what happens to it and subsequently devote itself to that which is valid for all, or as Paul magnificently puts it, "becomes all things to all men" (66, I Cor. 9.22).

According to Badiou, the new "figure of the real" announced by Pauline Christianity is the division of the subject into flesh and spirit. In Paul's words "the thought of the flesh is death; the thought of the spirit is life" (Romans 8.6). For Badiou, as we shall see for Voegelin, this aphorism cannot be reduced to two hypostatized realities of the soul and the body. Instead, they are movements or two parts of a unicity. But for Badiou, the materialism of grace places the focus back on man for his own salvation and for his own immortality. Paul's famous invoking of Adam to further explicate the overcoming of death through Christ's resurrection is interpreted by Badiou to show that "it's a man, who, capable of inventing death, is also capable of inventing life" (69). Thus, Christ's death becomes a "renunciation of transcendence" and "sets up an immanetization of the spirit" (69).

Concomitantly, Paul's phrase, "the letter kills, but the spirit gives life" means for Badiou that there is no rulebook for creating a truth procedure, "there is no letter of salvation, or literal form for a truth procedure" (84). This radical subjectivity provides an answer to Heidegger's query whether thinking can "ever raise the question" of aletheia "as long as it thinks philosophically" (Heidegger 1977, 389). Badiou writes "thought can be raised up from its powerlessness only through something that exceeds the order of thought" (85). While for Heidegger, it is a letting be or releasement that transcends traditional metaphysics, it appears that

for Badiou the event unchains the subject from the prevailing ideologies and releases him or her to create his or her own truth procedure. Resurrection thus becomes not just the name of the Pauline event; it becomes what the subject undergoes when it is released from the prevailing law by an event. "Christ redeemed us from the curse of the law" (Galatians 3.13).

Universalism in Badiou

Paul's truth is evental and thus singular and as event it also breaks out of previous particularities such as Jewish law or Greek philosophy. However, counter-intuitively, Badiou argues that this singularity lends itself to universality. Since the truth of an event "is diagonal to every communitarian subset; it neither claims authority from, nor (this is obviously the most delicate point) constitutes any identity. It is offered to all, or addressed to everyone, without a condition of belonging being able to limit this offer, or this address" (14). Not surprisingly then, Paul will have little patience for sectarian disputes over circumcision, the role of women, rituals of food and drink, etc. Such disputes belong to the old orders that have been transcended by the new truth of Christ's resurrection.

Badiou appears far from clear as to whether universalism is contingent upon the content of the event, or whether the fact that something is an event makes it universalizable. In the latter interpretation, anything can become an event, and thus, can be universalizable since it is not contaminated by the prevailing particularisms. "An evental rupture always constitutes its subject in divided form of a ﷽not﷽ but,' and it is precisely this form that bears the universal" (63-4). The "not' is a rejection of all previous particularities, while the "but" heralds the new truth that transcends all previous particularities.

But, the "content" of the Pauline experience also lends itself to universality. First, Badiou stresses the importance of Paul's henology for universalizing the truth of the event. "His genuinely revolutionary conviction is that the sign of the One is the for all', or the without exception" (76). Further, the Christian truth, by discarding the "master" discourses of Judaism and the Greeks, is built upon fraternity and universality. In Jewish thought, one "demands signs" thus he will look up to one who can perform signs, in Greek discourses, one questions reality, thus he will look up to one with wisdom, but in Christian discourse: one declares Christ as crucified and risen. This is the entire truth: there is no master who can say anything more. Such a truth is open to all no matter their background or abilities.

The symbol of Christ as the Son of Man also lends itself to the creation of a universal brotherhood founded on equality. In Badiou's reading, Paul doesn't need all the subsequent Trinitarian machinations; he just needs the son. "The resurrected son filiates all of humanity one must depose the master (as found in Greek and Jewish discourses) and found the equality of sons" (59). Badiou highlights Paul's statement that we are all God's coworkers as the epitome of our equality and thus brotherhood or universality (I Cor. 3. 9). In Badiou's interpretation: we all work together on the "truth procedure" of the event" (60). Finally, it appears that Paul's abstraction from the historical milieu lends itself to universality. Paul does not embed Christ in the rural poor milieu. Thus, "there is in this prose, under the imperative of the event, something solid and timeless, something that, precisely because it is a question of orienting a thought toward the universal in its suddenly emerging singularity, but independently of all anecdote, is intelligible to us without having to resort to cumbersome historical mediations" (36).

Badiou's militant for the truth runs into the same difficulty as any prophet who could be transfixed into a priest. The truth of the event must continually be renewed or it will become yet another particularity. Badiou runs into the problem that Levinas and Derrida have encountered in institutionalizing an an-archical ethics. It must continue to impress on the social, without losing its original diagonal nature. Here Badiou relies on Paul's writings on love and hope. "Love underwrites the return of a law that, although nonliteral, nonetheless functions as principle and consistency for the subjective energy initiated by the declaration of faith" (89). Love will sustain the militant spirit of subjectivity that in turn leads Badiou to stress the second half of Jesus' teaching "you shall love your neighbor as yourself" (Rom. 13. 9). Badiou writes "in Paul's thought, love is precisely fidelity to the Christ-event, in accordance with a power that addresses *the love of self universally*" (90, *emphasis added*). Hope then becomes endurance by itself. That is, it is not hope toward a final judgment or even a final reward. Hope is "fidelity to fidelity", a real fidelity to the truth that does not waver. And, thus, "hope does not disappoint" (Romans 5.2).

The truth that is sustained in the subject is a universal truth. The new truth is that the subject can hold a new truth dear, and he can be released from the law. As long as he holds this dear, he realizes that this is a truth for all. "There is singularity only insofar as there is universality. Failing that, there is, outside of truth, only particularity" (97). Truths that are universalizable are "subtracted from every predicative description" (Badiou 2004, 144).

One additional point on universality emphasizes the abstractness of the event in Badiou and needs to be emphasized. For Badiou universality is not equated with consensus. There are those who will reject the truth produced subsequent to the event. Not all emperors converted to

the Pauline truth and not all Christians embraced the Pauline vision. However, the event has changed the terms of the discourse. In the terms of set theory an element that had previously been uncounted now is counted. Badiou describes this process in a socio-historical situation as something that was undecidable being decided, not in the sense of being a last word, but the issue must now be confronted. For example, one may disagree about the causes or consequences of the French Revolution, but merely by engaging in the argument is to admit the existence of an event that changed the world (2004, 148-9). In this way, the event ushers in a new universality that transcends previous particularities. However, not all major historical events can be counted as events in that they usher in a new universality. For example, Badiou claims that the tragic events of 9/11 do not constitute an ontological event because the production of truth afterwards did not call into question the truths of the previous situation.

Badiou's thought would undoubtedly draw the ire of Voegelin as yet another example of an egophanic revolt. In answer to Heidegger's question: "what speaks in the ⟨There is / It gives" Badiou would most likely reply the subject who is faithful to the truth of an event. However, Badiou's sense of universality rooted in concrete experiences (but not relying on consensus) is something that can be found in Voegelin. Voegelin though is much clearer on the importance of the content of the event. But, we need to be careful here; for both Badiou and Voegelin, the content is unknowable as an object of thought, but should be seen as part of a structure of experience that includes the subject, the event, and the symbolization. But, as we shall see in Voegelin's thought, claiming that an event is beyond predicates does not mean that the singular event lacks any structure or any identifiable content. The content of the event is paradoxically its structure.

Eric Voegelin and the Pauline Vision

Eric Voegelin in his chapter "The Pauline Vision of the Resurrected" also utilizes Paul's vision of the resurrected for insights into the historical process of truth and its modern deformations. For Voegelin, as in Badiou's writings, truth is constructed in a dynamic tension between the subject, the event, and the symbolization of the event. None of these can be abstracted or seen in isolation. For both thinkers the events are aleatory. For Badiou, the event arises from an immanent grace and Voegelin writes "neither can we predict the date for such an event in the future or know what form it will assume. The event, as it can happen any time, hangs as a threat or hope over every present" (239). Unlike Badiou, Voegelin has no question about the origin of these types of events, which he labels theophanic events. As with Badiou, the event cannot be separated from its exegesis. "In its experiential depth, a theophanic event is a turbulence in reality. The thinker who has become engulfed by it must try to rise, like the Aeschylean diver, from the depth to the surface of exegesis" (252). Once the thinker is raised from the depth, exegesis commences, but this is open to bias and derailment. Even if the exegete remains faithful to the metaleptic nature of the event, the symbolization may still "degenerate" into a nominalist definition and "the dissociation of paradox into a quarrel about definitional fixtures which cut loose from their experiential basis cannot be brushed aside as a harmless entertainment for mediocre thinkers" (253). Though Badiou too emphasizes the experiential basis of the event, he has abstracted the content of the event and the metaleptic nature of reality. He would most likely be a classic case of an egophanic revolt against the structure of reality who searches for a "man-made" revolution. As Voegelin argues, once the definitions are un-hitched from the theophanic event the thinkers "are in search of a turbulence that will supply them with

the meaning they lost when they cut loose from the theophanic event; and they find this source of meaning in the man-made turbulence of a revolution" (253).

Further, against Badiou who sees a radical break between the Pauline exegesis and Christian and Greek thought, Voegelin stresses the continuity of the Pauline exegesis with previous symbolizations from the Egypt of the Pharaohs, through the Homeric myths, to the philosophical myths of the first philosophers. Though Paul's experience fits on the same continuum, he further "differentiated the truth of existence, i.e., the experience of its ordering process through man's orientation toward the divine ground so far that the transcosmic God and his Agape were revealed as the mover in the theophanic events which constitute meaning in history" (250). With Paul's articulation of "pneumatic depth" we have moved beyond Plato's symbolism of the demiurge, nous, and Ananke, and thus, require a more differentiated myth to represent this movement in reality toward the "the state of aptharsia" (250). The new myth must "become the drama of creation and fall, of fall and redemption, of death and resurrection, and of the ultimate return of creation to its imperishable glory" (p. 250). In short, the myth must be an eschatology.

The new emphasis in Paul's vision and his personal predilections, though, open the way for a derailment. Paul, who has further differentiated the divine movement toward man, "does not concentrate on the structure of reality that becomes luminous through the noetic theophany, as the philosophers do, but on the divine irruption which constitutes the new existential consciousness" (246). Such a differentiation has the potential to upset the precarious postulate of balance, and Paul is seized by "the anticipation of a state of perfection" (247). He goes so far as to dwell on the apocalyptic vision of man's immortality. Paul writes, "we shall not sleep, but we

shall all be changed, in a moment, in the twinkling of an eye, at the last trumpet. For the trumpet will sound, and the dead will be raised imperishable, and we (who have not yet died) shall be changed" (241, quoting I Cor. 15).

Thus, where Badiou sees Paul as breaking new ground, Voegelin sees Paul's exegesis of the event as a potential derailment. But on the other hand, Voegelin sees Paul's vision and symbolization constitute a further unfolding of both Jewish law and Greek philosophy while Badiou's Paul breaks with both creating a third alternative. Badiou will embrace Paul's antiphilosophy, indeed it is requisite "since the event that he takes to identify the real is not real (because the resurrection is a fable), he is able to do so only by abolishing philosophy" (58). Their interpretation of Paul's attempt to communicate in the language of the philosophers at the Areopagus starkly manifests this difference. For Voegelin Paul's failure to communicate his vision shows Paul's weakness in articulating the truth of the event, while for Badiou the encounter shows a weakness of philosophy. Paul's vision "is not a proposition capable of being supported by a philosophia. That essence of all this is that a subjective upsurge cannot be given as the rhetorical construction of a personal adjustment to the laws of the universe or nature" (28).

These differences reveal fundamental differences between Voegelin and Badiou on the content of the event. For Voegelin, the event has a structure and a direction. As such, it is possible to be unfaithful to the event. For Badiou, although it is possible to be unfaithful to the production of truth following an event, it is an open question as to whether one can be unfaithful to the event itself. Since the event lacks a specific content, fidelity is reduced to a faith in the subject to maintain its diagonal position to accepted truths.

To summarize, for Badiou, Paul represents a much more radical irruption than Voegelin's Paul. For Badiou, Paul represents the epitome of "no‹ but" thinking, while for Voegelin, it would be "yes‹ and". For Voegelin, Paul is a continuation of a series of theophanic events, one that is made more luminous to consciousness. Even Paul's apocalyptic tendency provides an important lesson about the mystery of reality.

Here, we have Voegelin's most important insights into the structure of history as articulated in *The Ecumenic Age* and afterwards. Voegelin came to see his project of tracing a more or less linear treatment of history as in the first three volumes of *Order and History* was inadequate to the evidence presented before him. In *The Ecumenic Age*, Voegelin continues to hold that history has a structure and a direction, but "the directional movement in reality has the character of a mystery indeed" (239). This mystery is due to the metaleptic nature of both reality and history. Humans experience themselves in the Metaxy, a structure of participation between the apeiron and the nous, with a direction toward immortality that can never be achieved. History is experienced as a similar structure. "When the paradox of reality becomes luminous to itself in consciousness, it creates the paradox of a history in suspense between the Ananke of the cosmos and the freedom of eschatological movement" (258). History has a structure that moves "beyond itself" without being completed. For Plato and Aristotle the "accent falls‹ on the cognition of structure and, in the Pauline case, on the exodus from structure" (258). These experiences are not contradictory, but are part of the same reality "that moves beyond its structure." History as a structure that tends beyond itself is constituted by theophanic events, it is not the site of theophanies. "The theophanic events do not occur *in* history; they constitute history together with its meaning. . . . As a consequence, ‹history' in the sense of an area in

reality in which the insight into the meaning of existence *advances* is the history of theophany" (Voegelin 1974, 252, *emphasis added*).

This structure of history leads to Voegelin's sense of universality or more accurately, community. The continuity of experience in the Metaxy and the concomitant continuity in history amid theophanic events leads to shared experiences for those able to maintain the postulate of balance through nous. Voegelin writes, "without prejudice to the existentially ordering force of pneuma, the life in community is governed by nous" (245, Cf. Voegelin 1957: "The Logos is what men have in comment and when they are in agreement with regard to the Logos [homologia] then they are truly in community" [232]), but recall that Voegelin following Aristotle holds that nous has a divine element. The structure of reality/history as it is known through nous, serves to constrain or orient the subject in relation to the events and, as I will discuss below, provides a ground for Voegelin to make ethical claims.

For Badiou the content of the event is relegated to a secondary status, and for Voegelin the event has a structure, but no determinate content. For each, the key is how the truth process is manifest in history. For Marion , though, the emphasis is on the revelatory event itself, and only secondarily on the historical exegesis. Marion 's analysis of the saturated phenomena gives us a way of thinking through the phenomenality of the event that allows us to go to the things themselves without needlessly abstracting the content of "the things' themselves.

Marion and the Givenness of the Things Themselves

Jean-Luc Marion's project might be best summarized as an attempt to establish phenomenology as first philosophy without falling into an onto-theo-logical metaphysics.

Marion claims that previous phenomenologies such as Hegel's and Husserl's with their exhortation "to the things themselves" ultimately lead us to think everything but "the things" themselves. Husserl overemphasizes "objectness" and while Heidegger emphasizes the event he fails to examine the givenness of Being itself. Marion further questions Husserl's (and by extension Badiou's) privileging of "logical and mathematical phenomena," what Marion calls poor phenomena. "They are set up as models for all the others on account of their certainty, while they are distinguished form the others by their shortage of intuition, the poverty of their givenness, indeed the unreality of their objects" (Marion 2002, 194-5). To answer Heidegger's question: "what speaks in the 'There is / It gives' then, intuition must be restored to a privileged place over intention and concepts. We must 'see' beings as they are given to us, not as they appear in consciousness. Marion argues that saturated phenomena are the prototypical examples of givenness, and the exemplar of a saturated phenomenon is revelation, especially the figure of Christ. The appearance of Christ overwhelms onto-theological categories and is purely given in being. Not surprisingly, many commentators argue that Marion has covertly moved from phenomenology to a negative theology (See, for example, Janicaud 2000).

Marion uses Derrida's recent work on problematizing the gift and givenness as a theoretical tool for understanding saturated phenomena. Recall, Derrida argues that the gift is that which is purely an-economic and he therefore makes the startling claim that the gift is impossible, because pure givenness requires that the subject not be aware of it, the receiver not recognizes the gift *qua* gift, and the gift cannot be reciprocated in any means. Indeed, if the gift is known as a gift by either the giver or "givee", then it will fall into the realm of economics. Marion , however, will argue the gift *is* possible, but only as a reduced gift, one that gives itself without a giver, and thus cannot be reduced to reciprocity. Such a phenomenon overflows the

intentionality or concepts of the subject. He writes, "because it shows itself only inasmuch as it gives itself, the phenomenon appears to the degree that it arises, ascends, arrives, comes forward, imposes itself, is accomplished factically and bursts forth--in short, it presses urgently on the gaze more than the gaze presses toward it" (159). Such a reduced gift is beyond the control of the subject and echoing Badiou and Voegelin, it is aleatory: "we cannot in any way master it. . . . It comes, does its thing, and leaves on its own. The event, I can wait for it (though most often, it surprises me), I can remember it (or forget it, but I cannot make it, produce it, or provoke it." (159-60).

Marion needs to show that such givenness remains within the orbit of phenomenology, and thus he equates givenness and phenomenality. "What appears gives itself, what gives itself appears or, better, shows itself" (119). Following his logic of the reduced gift, then phenomena must not be given by a giver and must be beyond intentionality and concepts, but yet appear. Here Marion conducts an extended meditation on Husserl's principle of principles:

> "Every originarily giving intuition is a source of right for knowledge, that everything that offers itself originarily to us in intuition' is to be taken simply as it gives itself, but also only within the boundaries in which it gives itself there" (p. 184 of BG).

Marion focuses on three key elements from this passage to show how Husserl has ignored the givenness of phenomena. First, Husserl bounds phenomena by intuition. Second, the phenomena are limited by previous experiences of the ego. What is known fixes the unknown. Marion here is borrowing from Levinas who claims that autonomous thought reduces all phenomena to pre-conceived categories. So openness to Being is really

"equivalent to a visual prison, a panopticon broadened to the dimensions of the world, a panorama without exterior, forbidding all genuinely new arising" (187). Finally, in Husserl's formulation, the phenomenon relies on the pre-existing I so Husserl's thought can be reduced to an egology. Husserl had moved in many ways toward pure givenness, but he never even questioned the transcendental ego that "authorizes" the phenomenon.

Marion asks what types of phenomena might transcend the limiting intuition of the principle of principles. He even wonders whether some phenomena might be "making sport" of these horizons of intuition (189). In order to track such a pure phenomenon, Marion interrogates Husserl's definition of phenomena. For Husserl, "highest phenomenality" is given to that which is adequated between noesis and noema and between intention and intuition. But such an adequation is an exceptional instance. Thus, truth is pretty much impossible, or at least truth is an idealization, in the sense of being an ideal circumstance. Marion argues that Husserl has gone down this path is because he has relied on a minimalized version of intuition. Indeed, for Husserl, there is adequation in exactly those realms where intuition is almost completely lacking; "a formal intuition (space in mathematics), a categorical intuition (logical beings), indeed no intuition at all (empty tautology)" (191).

In opposition to such poor phenomena, Marion suggests that there are saturated phenomena that exceed the Kantian categories of quantity, quality, relation, and modality. Marion considers, *inter alia*, five examples of saturated phenomena; the event, the idol, the flesh, the icon, and revelation. Each of the first four surpasses each of the four Kantian modalities (quantity, quality, relation, modality), but it is revelation that surpasses all four modalities and possesses a maximum of phenomenality.

By exceeding the first three modalities, saturated phenomena "put into the question the ordinary sense of horizon; the last, the transcendental sense of the I" (199). More specifically, quantity is understood by Kant as the sum of the parts of the phenomenon, that is the quanta of the phenomenon will add up to a commensurable quantity. But, the saturated phenomenon cannot be glimpsed in its entirety "since the saturating intuition surpasses limitlessly the sum of the parts by continually adding to them" (200). Such a phenomenon functions as a cubist painting where "the objects that are supposedly the most simple [illegible] violin on a stool, with newspaper and vase--in fact always give more to see, and form afar, more than we can think" (201). For Marion , the [historical] event epitomizes the first type of saturated phenomena. For example, the causes of World War I will never be understood completely, each new historical interpretation breeds new interpretations without fully grasping the phenomenon. This endless set of interpretations also overturns a Cartesian maxim in that the effect has more reality and precedes the cause "for without the effect, there would be neither meaning nor necessity to inquiring after any cause whatsoever" (165). Secondly, the saturated phenomenon is unbearable according to quality. For Kant, quantity can be seen in the minutest change from a zero point, the most barely perceptible phenomena. Thus, Kant will privilege the poorest phenomena. For Marion , instead, the saturated phenomena overwhelm by surpassing our sense of quantity as in an idol that overflows our perceptions and causes us to rejoice in glory. For instance, the prisoner in Plato's cave "because of the bedazzlements, he would not have the strength to see face on [*dia tas marmarugas adunatai kathoran*] that of which he previously saw the shadows (204). Third, the saturated phenomenon "appears absolute according to relation which means it evades any analogy of experience" (206). For Marion , the auto-affection of the flesh resists all intentionality. "There is no sense in asking

if these affects come to it from the body, the mind, or the Other, since originally it always auto-affects itself first in and by itself" (231). Fourth, saturated phenomena are irregardable according to modality. Recall that modality, refers to the phenomenon's "relation to thought in general" so that a phenomenon becomes adequate to the thought of the I. Kant writes, "the postulate of the possibility of things requires that the concept of the things should agree with formal conditions of an experience in general" (212). Marion believes that such an adequation with thought is possible for poor phenomena that lack "phenomenal autonomy", in other words, those that are "poor in intuition, poor especially in phenomenality" (213). Is it possible to have a phenomenon that does not need the ego? Marion believes that saturated phenomena are visible to the ego, but cannot be regarded in the sense of being gazed upon. For to gaze upon is to hold the phenomenon in consciousness, that is to keep "objects in an objected state for the I" (p. 214). As such, it is counter-experience, beyond the categorization of the I's experience. It is seen, but cannot be held in sight. So the I "sees the superabundance of intuitive givenness; or rather, it does not see it clearly and precisely as such since its excess renders it irregardable and difficult to master" (p. 215). Marion reverts back to the Levinasian/Derridean language of the trace to describe this experience. The I apperceives not so much the saturated phenomenon itself directly, but "the perturbation that it in person produces within the ordinary conditions of experience. It sees nothing distinctly (in particular not an object), but clearly experiences its own powerlessness to master the measurelessness of the intuitive given" (216).

Revelation, because it appears as event, idol, flesh, *and* icon saturates all previous saturated phenomena and thus is a second-degree saturated phenomena and the "paradigm" of such second-degree saturated phenomena is the appearance of Christ as told through the

synoptic gospels. Christ, as he appears in the gospels, is an event that was totally unforeseeable, the appearance is unbearable according to quality, overwhelms any possible relation, and is irregardable in terms of modality.

Faced with such phenomena, the subject can no longer be described as merely a transcendental I or even by the resoluteness of Dasein, but should be described first and foremost in the dative as the receiver par excellence. To receive "means nothing less than to accomplish givenness by transforming it into manifestation, by according what gives itself that it show itself on its own basis" (p. 264). Here Marion seems to be employing a form of the middle voice to describe the dual role of the subject. The givenness of the saturated phenomena speak through the subject, and at the same time, the subject has limited agency in serving as "a filter or prism" that "manages the phenomenological opening where the given must show itself" (264-5). But, Marion in trying to push past Husserl's egology must minimize the role of this filter or prism to the point that it becomes, in Kant's words "nothing more than the feeling of an existence without the slightest concept" (265).2 [2] The subject is reduced to the role of the gifted that is summoned by a call, but this call will only be known through the response.

Marion pays homage to Levinas by placing the ethical responsibility called for by the encounter with the face of the Other as one type of responsibility. After all, the face of the Other as icon would be a saturated phenomenon in that "the gaze of the Other . . . does not give itself to my gaze, nor even to be seen--this invisible gaze gives itself only to be endured"

2 [2] Here Marion appears close to Heidegger's concern with Dasein, namely that, Being-in-the-world, just like knowing, belongs to the domain of our own potential" (73).

(232). Nevertheless, the other saturated phenomena also call to the subject and expect the subject to be response-able. Marion concurs then with Levinas (and Badiou) that the subject "receives himself from what gives itself" (296). Indeed, late in *Being Given*, Marion emphasizes that he does not envision his work as rejecting "the most recent advances in phenomenology---hermeneutics, differance, auto-affection, and the gaze of the Other." Instead he writes, "I am only trying to confirm them by assigning each a precise site within givenness" (322). Each of these advances had succeeded admirably in moving beyond Husserl's and Heidegger's projects and thought ﷺthinking' in a new way, but at the possible cost of falling out of the ambit of phenomenology. By placing each of these advances within givenness, thus within the scope of saturated phenomena, Marion keeps them within the domain of phenomenology.

Marion ends *Being Given* by offering two suggestions as how his account of saturated phenomena might offer useful revisions to Levinas' ethics of the Other.3 [3] First, since the Other is given and thus a phenomenon, there is no longer a question of whether and how the Other appears. As such, the gifted also gives himself by receiving the Other. Thus, Marion opens potentially fecund analyses of intersubjectivity, or what Marion calls intergivenness. Second, and more importantly for my work on human rights, Marion 's analyses might counter Levinas' proclivity for abstraction. Recall that Levinas, faced with Heidegger's fundamental ontology, emphasized that the Other appears denuded of all ontological categories, or, in his later writings, otherwise than Being. In doing so, Levinas may have abstracted the Other to the point that he or she appeared as a poor phenomenon. Besides

3 [3] It is far from clear here whether Marion is referring to the absolute Other of divinity or the concrete Other *a la* Levinas.

doing injustice to the concrete Other, such abstraction also moves the Other precariously close to the realm of poor phenomenon that can be com-prehended by the subject. As saturated phenomenon though, "I instead reach him in his unsubstitutable particularity, where he shows himself like no other Other can. This individuation has a name: love" (324).

Human Rights and the Event

Heidegger's thought and the ensuing phenomenologies (hermeneutics) of the event have, in the very least, deconstructed the autonomous subject, shown knowledge to be historically determined, and revived the temporal dimension of being. In a future work I will more fully develop the positive aspects of their thought in relation to human rights. In other words, what does it mean for the subject to be infinitely responsible (perhaps as a witness) to the individuated Other (and other saturated phenomena) and how can such a radically responsibility to a call be universalized without minimizing the irruption of the event? Here I will briefly discuss Badiou's critique of the current human rights regimes and then I will discuss how Voegelin's, Marion's, and even Badiou's, thought provide some directions for moving past these critiques.

Badiou claims that the current ideology of human rights is an unfortunate return to an "image of Kant" that overemphasizes pity for the suffering of the individual Other over affirmative human projects. Badiou begins "in the face of crimes, terrible crimes, we should think and act according to concrete political Truths, rather than be guided by the stereotypes of any sort of morality" (Badiou 2001/2). And some concrete truths, such as the truth of widespread poverty, are painfully obvious to "the whole world." He writes, "How long can we accept the fact that what is needed for running water, schools, hospitals, and food enough for all humanity is a sum that correspond to the amount spent by wealthy Western countries on perfume in a year" (Badiou

2001/2). Instead of focusing on affirmative projects that would affirm the humanity of the vastly underprivileged, the Western world has created a human rights discourse that only "kicks in" once a human is reduced to a victim and thus reduces the other to his or her animality. These victims then lack any agency, and must be saved by a self-satisfied Western power, whose role in the very political situation that caused the suffering thus eludes scrutiny. Instead, Badiou calls for rights that privilege the immortality of man, in that Man is "immortal at the instant in which he affirms himself as a someone who runs counter to the temptation of wanting-to-be-an-animal to which circumstances may expose him" (Badiou 2001, 12). By maintaining that rights only relate to a negative role of the state, all positive political projects are "stigmatized as utopia runs, we are told into totalitarian nightmare" (Badiou 2001, 13). For example, the singular universality of St. Paul would be impossible in such a situation; there is no room for new truths that cut diagonally against the prevailing ideology.

Finally, Badiou claims that the current human rights ideology disregards concrete, singular situations. Here, Badiou sounds a great deal like the medical anthropologist Paul Farmer. Doctors before treating patients are told to check for residency papers and immigration cards, or in Farmer's world, they are told to use medicine appropriate for the conditions, which has become shorthand for not wasting high-tech medicines on the poor. Badiou writes, with Farmer-like fervor "if he [a doctor] is to be prevented from giving treatment because of the State budget, because of death rates or laws governing immigration, then let them send for the police! Even so, his strict Hippocratic duty would oblige him to resist them, with force if necessary. For to be faithful to this situation means: to treat it right to the limit of the possible. Or, if you prefer: to draw form this situation, to the greatest possible extent, the affirmative humanity that it contains. Or again: to try to be the immortal of this situation" (Badiou 2001, 15). Thus, Badiou

concludes that a rights of man, must be based upon "affirmative thought, "our boundary-breaking treatment of possibilities", and "singular situations" (Badiou 2001, 16).

Badiou and Voegelin on the Truth of Rights

Human rights advocates could answer that Badiou is merely calling for a further purification of human rights, that is, to extract any trace of the political from rights discourse. And Badiou himself appears to lean in that direction when he calls these and other concrete situations 'crimes', when he says the whole world understands them to be unjust? Shouldn't it then be a matter of equating human rights abuses to what he labels crimes or injustices? But haven't we then perpetrated an injustice on Badiou's thought or, at minimum, let human rights and its ideology, off the hook prematurely. After all, Badiou also criticizes rights discourses for neglecting the political dimension. But, what is politics for Badiou? Badiou seems to be calling for an ethics based on a singularity that is also universal, an ethics that cuts diagonal across current ideologies, but that can speak to the current laws just as Paul's vision spoke to the laws of his time. For Badiou politics appears to be the battle over the production of truths and the limitations on that truth stemming from the current situation (or what he calls a "world" in his most recent writings). But, there are no assurances that such a truth will affirm the immortality of man. Badiou's call for a singular universalism would seem to fall hopelessly into a relativist abyss, because of his overemphasis on the novelty of the event. At best, Badiou can set up two least common denominators for rights discourses. First, Badiou's emphasis on the agency of the subject can lead to liberal defenses of human rights such as the one recently advanced by Michael Ignatieff. But, what will bind his subject with agency to find a truth that leads to ethics?

Or, Badiou can argue for an abstract equality based upon a formal equality of elements in a multiplicity.

Here I find Voegelin's discussion of the "right by nature" in Aristotle to be quite helpful in augmenting Badiou's thought by finding a changeable but universalizable ethics that is derived from a subjective event. For Voegelin, previous theories of natural law from the Stoa forward have separated the symbol of natural law from its experiential foundations and thus they have hypostatized natural law into an "object" that is used to claim universal and eternal norms of conduct. To counter this tendency, Voegelin attempts to retrieve the experiential origins of the Aristotelian symbol "right by nature." In so doing, he re-discovers an ethics grounded in individual experience that is both transcendent and immanent. First, Aristotle claims that, unlike popular opinion, there is a justice by nature, which "has the same force everywhere and does not depend on what we regard or do not regard as just." However, Aristotle seems to quickly contradict himself when he writes that justice by nature is changeable (*kineton*), "in our world, although there is such a thing as natural justice, all rules of justice are variable (*kineton*)" (Aristotle, *Nicomachean Ethics*, 1134 b18, 1134 b20.). Since Aristotle's *physei dikaion* only refers to the ideal polis, the one that is right by nature, Voegelin writes, "there can be no natural law conceived as an eternal, immutable, universally valid normativity confronting the changeable positive law. This is so because the justice of the polis, its *nomos*, insofar it constitutes the rule of law among men free and equal, is itself right by nature." (Voegelin, 1978 58-9.)

Aristotle's continues with what might be a surprising claim to many, that concrete actions "possess a higher degree of truth" than universal principles. In this context, Voegelin introduces

his phrase, "the ontology of ethics." At first glance, it seems that an ethics based on concrete facts and not grounded on some sort of ultimate "being" is precisely not ontological. Nonetheless, Voegelin can write of an ontology of ethics because ethics is based on an individual person's participation in concrete existence. Ethics is not known in the abstract, but in concrete action, but only through the concrete action of the *spoudaios,* who is the person who participates in the *Metaxy*, with his or her soul ordered by the transcendent.

These political insights again are not universal rules but rather they are the insights of the individual conscious of the hierarchy of being, including its place in the *metaxy*. (Voegelin 1978b, 211). These insights are not even societal truths; rather they are discovered in the realm of individual people responding to the transcendent. So, in any type of society the best that can be hoped for is a small group of free and equal mature men (*spoudaioi*) who will be the politically dominant group. This group will best "actualize the ethical and dianoetic excellences in their persons." This group will be bound by philia, in the specific sense of an existential virtue, that only spoudaioi are capable of possessing. A person cannot participate in philia unless he or she is in agreement with themselves and this agreement is a proper ordering of the self toward the divine nous.

The crucial point here though is that Voegelin, in opposition to almost all current thinking on rights, is positing a truth of rights that could be universal, changeable, and rooted in the experience of an event. Such rights should not be separated from their origin in an experience and its symbolization. This approach would belie recent hypostatizations of rights discourses such as Alisdair MacIntyre's deriding of inalienable rights as fiction. MacIntyre writes "there are no such rights, and belief in them is one with belief in witches and unicorns" (1984,

69). Voegelin would counter that rights are not "things" that require belief--they have no truth outside of the event or the encounter.

But, what exactly is this encounter? In Badiou's work it is what leads to a truth production, for Voegelin, it reveals an order, but this does not move us much beyond an embrace of negative rights. Could saturated phenomena and response to a call be fruitfully stretched to encourage new directions in rights discourses? An obvious direction would be as an extension of Levinas', Derrida's, and Dussel's call for an asymmetrical and concrete responsibility for the radically Other. These thinkers too describe an encounter with the Other that resists intentionality and thematizations. In Levinas' words, "we come upon events that cannot be described as noeses aiming at noemata, nor as active interventions realizing projects, nor, of course, as physical forces being discharges into masses. They are conjectures in being for which perhaps the term ‘drama' would be most suitable" (Levinas 1969, 28n.2). Dussel, will concretize this encounter and its ensuing call: "victims appear before us: someone is begging, someone is injured beside the road, a street kid is cleaning our car, we encounter a victim of repression, we meet a woman who has been brutally beaten, we speak with a student unfairly treated by the teacher. The victim is another whose accusing presence we can no longer ‘shake off' when it comes to our obligation to ‘do something' for that person" (Dussel, 1999, 127). Doesn't Marion rigorous analysis provide further evidence that such philosophies do not revert to onto-theological metaphysics or even a negative theology? Conversely, doesn't such ethical thought assist Marion 's defense against the charges of introducing old gods into philosophical discourse?

More interestingly might be a consideration of other experiences that may follow the structure of the saturated phenomenon. Wouldn't the experience of the Holocaust count as a saturated phenomenon *par excellence*? One thinks of Felix Frankfurter's famous response in 1942 to the depictions told by Jan Karski, the Polish agent who has infiltrated the camp at Belzec and the Warsaw ghetto. Frankfurter responds: "I don't believe you I do not mean that you are lying. I simply said I cannot believe you" (quoted in Power 2002, 34). And, of course, a plethora of authors from Levi to Wiesel have asked what it means to give witness to the Holocaust, and Agamben recently argues that such an event calls into question our very notion of witnessing. He quotes Elie Wiesel, "those who have not lived through the experience will never know; those who have will never tell; not really, not completely" (Agamben 2002, 33). Have there not been a plethora of similar singularities (Srebrenica, Rwandan city) on which to universalize rights. Though this is not a totally new truth, it can be a truth diagonal to the current situation. And, in Badiou's terms these events seem to have been decisions about what was previously undecidable. After the Holocaust and its concomitant holocausts, the world was changed, and international law was no longer an undecidability. After Bosnia and Rwanda , the question of criminal prosecutions for human rights abuses was decided. One could criticize the tribunals for their fairness, inefficiency, etc., but the question of such tribunals had been decided.

Conclusion: The Abstraction of the Event and the Other

It could be argued that by emphasizing faithfulness to the original event whatever the event Badiou has reduced the event to one of an infinites series of multiples, thus abstracting the concreteness or content-specific nature of the event. Marion counters by arguing for an ethics based upon the concrete experience of the specific Other. But, I will conclude by asking whether

there is another type of abstraction that is even more enduring. Can any attempt to universalize the encounter with an Other or any saturated phenomena be represented adequately or will there always be a differend between the experience of the event and its universalization? James Dawes argues that even legal instruments and institutions by their very nature ? since they must be deal with the universal -- have been set up to literally abstract (pull away) the concrete experiences of the victim. "Replacing the particular with the general, the private with the common, and the subjective with the objective, international law (it can be argued) invokes the participation of selves devoid of personhood, and of cultural and linguistic thickness" (Dawes 1999, 244). We could go further and argue that the experiential time (ecstatic temporality?) of the victim is reduced to linear time by the legal process through a series of depositions and testimonies. "Reported judicial decisions do not describe the non-knower's long moments of intense anxiety, short moments of sharp psychic pain, and the exhausted silences which the non-knower and his or her family members experienced" (Conklin 1998, 94).

Here, another type of thought may be needed--a thought that evinces fidelity not to the production of truth following the event, but to the encounter with the saturated phenomenon par excellence. Enrique Dussel seems to point to such a thought with his analectics that "begins from the Other as free, as one beyond the system of totality; which beings, then, from the Other's word, from the revelation of the Other, and which, trusting in the Other's word, labors, works, serves, and creates" (quoted in Dallmayr 2004, 114). The next ?chapter' of this project will explore recent phenomenologies of the Other and witnessing in relation to recent phenomenologies of rights with an eye toward describing concrete universalisms that resist abstraction.

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