

# Troubling Confessions: Speaking Guilt In Law & Literature

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Apart from some difficulties in his analysis, the main problem with Raz's book lies in its initial assumptions (following Kant) that we are duty bound to respect people because they are of value in themselves. This is not at all evident. For example, it is not clear that other people should be given our respect (in the sense of acknowledgement and minimal preservation) rather than other forms of relation such as care, concern etc. Likewise, it is not obvious that we should base our correct attitude towards others on their nature as *valuers* (that is, as *reasonable* creatures with the faculty of evaluating), and not on their capacity to have feelings and emotions, or upon the mere fact that they are human beings. These last comments are typical of the critique of analytical inquiry that Raz is engaged with. Indeed, as the author admits, every systematic analysis and every "procedural" definition (such as his own "thin understanding of universality" (p. 42)) at some point relies upon contingent normative assumptions and preferences that are "one-sided and partial" (p. 2). This important critique should not prevent us from acknowledging the beauty of projects like Raz's book and their enhancement of our intellectual and social life.

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## Peter Brooks

*Troubling Confessions. Speaking Guilt in Law and Literature*  
Chicago, The University of Chicago Press, 2000, 206 pages, notes, index.

Ce livre est intelligent, tenace, prudent et sans concession. Que veut dire « avouer », « dire la vérité », « se confesser »? Quel est le statut de l'aveu pour le droit, devant un juge? La prétention de dire la vérité par l'aveu est-elle exempte de tout mensonge? La mémoire est-elle si fiable que le sentiment de dire vrai suffit à la vérité? En bon casuiste, Brooks sait varier les questions et les points de vue. Il débusque bien les atteroiements des juges devant les témoignages plus ou moins contraints par la police, la famille, les remords ou les intérêts du sujet. Pour son enquête, Brooks étudie une série de jugements pertinents des Cours américaines dont, bien sûr, ceux de la Cour suprême des États-Unis, les raisons du Cinquième Amendement de la Constitution qui permet à l'accusé de ne pas témoigner contre lui-même, les rapports intimes entre les aveux, la conception du sujet en Occident et la confession catholique. Il n'hésite pas à regarder du côté de la psychanalyse et de la littérature pour se défaire des conceptions simplistes de la vérité, de la mémoire et du sens même des aveux. En somme, il rend la réflexion plus complexe que celle que supposent les options du droit

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