

Silence and Freedom (Stanford Law Books)

Louis Seidman



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"You have the right to remain silent." These words, drawn from the Supreme Court's famous decision in *Miranda v. Arizona*, have had a tremendous impact on the public imagination. But what a strange right this is. Of all the activities that are especially worthy of protection, that define us as human beings, foster human potential, and symbolize human ambition, why privilege silence?

This thoughtful and iconoclastic book argues that silence can be an expression of freedom. A defiant silence demonstrates determination, courage, and will. Martyrs from a variety of faith traditions have given up their lives rather than renounce their god. During the Vietnam era, thousands of anonymous draft resisters refused to take the military oath that was a prelude to participating in what they believed was an immoral war. These silences speak to us. They are a manifestation of connection, commitment, and meaning.

This link between silence and freedom is apparent in a variety of different contexts, which Seidman examines individually, including silence and apology, silence and self-incrimination, silence and interrogation, silence and torture, and silence and death. In discussing the problem of apology, for example, the author argues that although apology plays a crucial role in maintaining the illusion of human connection, the right to not apologize is equally crucial. Similarly, prohibition against torture—so prominent in national debate since the events of Guantanamo and Abu Ghraib—is best understood as a right to silence, essential in preserving the distinction between mind and body on which human freedom depends.

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