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The Forgotten but Unforgettable Desire of Justice

To do violence, the law must do justice to the other: this the law tries to remember. To do justice, the law must do violence to itself: this the law tries to forget. In the figure of Justitia -- that long-robed woman, holding a sword and a set of scales, with her eyes often blindfolded -- we read the law's effort to remember and forget. Throughout America and Europe, her magisterial figure rises wherever the state sits in judgment or conducts its affairs. In the Vatican's chambers, we find the Justitia of Raphael; in the famous allegory of good government painted in Siena, she appears twice, and twice the size of the other cardinal virtues depicted. In Delft and in Haarlem, Justitia rises above the town hall. In many American courthouses, she is painted on the wall behind the judge's bench. From atop Old Bailey she looks down on London; from atop City Hall, she looks down on New York.

Look up: high above Mayor Guiliani's chambers stands a stately figure, her gaze fierce but chaste. She is the finest example of Justitia in New York City, with her sword blade-down, scales aloft, hair wind-whipped, eyes open and staring. We recognize her as more than an artifact of Western culture; she is an icon, both religious and political, a mnemonic image evoking history, tradition, myth, and phantasm. Her scales remind us that Justice weighs with exacting care the acts and intentions of those before her.¹ For

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. A set of scales was used as a symbol of decision-making as long ago as the Egyptian Book of the Dead (ca. 1400 B.C.), which depicts the soul of a dead man being weighed in a balance. In one pan sits a heart-shaped urn, symbolizing all the actions of the man; in the other pan floats a feather, symbolizing Right and Truth. An Old Testament reference

these and other references to the various symbols associated with the figure of Justitia, see the remarkable essay by Dennis E. Curtis and Judith Resnick in the issue of the Yale Law Journal dedicated to the memory of Robert Cover: "Images of Justice," Yale L. J. 96 (1987):1741, n.32. I want here to acknowledge how useful this essay has been to my research and how splendidly it departs from the grim tradition of law review writing. Her sword reminds us that Justice strikes, with rigor

to scales as a tool of divine judgment appears in chapter 31:6 of The Book of Job: "Let me be weighed in an even balance, that God may know my integrity." In early Christian representations of the Last Judgment, St. Michael often appears holding a set of scales to symbolize the weighing of souls. The Koran also makes weighing a symbol of divine judgment, and the Illiad notes Jove's use of a set of golden scales to weigh Hector's accounts and determine his fate.

and speed, those who violate her sacred laws. Thus, in Giotto's "Distributive Justice" of the Arena Chapel, Justice crowns those who have done right and removes, by swift beheading, the "crown" of those who have done wrong.ⁱⁱ

In contrast to the scales and sword, the blindfold across Justitia's eyes has a troubled past, which we must decipher. The earliest instances of a "sightless" figure of Justice come first from the historian Diodorus, who reported that a blindfolded judge was shown on the tomb of Ozymandias; later, Plutarch reported that the Chief Justice of Thebes rendered judgment with his eyes closed.ⁱⁱⁱ Except for these esoteric references, no image of Justice depicts her with closed or blindfolded eyes until the 16th century. Until that time, Justice always appeared with open, unobscured eyes.

From 1500 on, however, variations set in. Justice, or Justitia, appears in paintings, in sculpture, in manuscripts and stained glass windows, with eyes uncovered and wide open, and with eyes covered and presumably shut. Sometimes her eyes are peeking through transparent, slipping or lifted blindfolds. One figure even depicts a Janus-headed Justitia, with one face showing covered eyes, and one face showing eyes uncovered and open.^{iv} By the time that Cesare Ripa published the first edition of his popular Iconologia in 1593, the blindfold had become an acclaimed feature of Justitia,

ⁱⁱ Another famous image of the sword of Justitia comes from Ambrogio Lorenzetti's well-known fresco, "Allegory of Good Government" in Siena's Palazzo Pubblico. The fresco depicts two figures of Justice. The smaller figure is labelled "Vindictive Justice;" in her hand she holds a sword, and on her knee lies a severed head.

ⁱⁱⁱ Curtis and Resnick point out that aside from these two instances, "hundreds of images -- statues, illustrated manuscripts, paintings -- depicted Justice with eyes open." "Images of Justice," p. 1755.

^{iv} Otto Kissel, a former judge, has written a wonderful book about the representation of Justice in buildings throughout western Europe. This reference to the Janus-faced Justitia is but one of many variations that he discusses. See Die Justitia: Reflexionen über ein Symbol und Seine Sarstellung in der Bildenden Kunst (Berne, 1984) 82-94.

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which he highlights in his personification of her image.^v Nonetheless, well into the

^v See Cesare Ripa, *Iconologia: Baroque and Rococco Pitctorial Imagery*, E. Maser, ed. (1970) 120. According to Maser's introduction, the full text of the original 1593 text has apparently never been translated into English. The earliest English version is George Richardson's 1777 edition, which like Maser's text, offers a selective rendition. Nevertheless, the popularity of Ripa's book cannot be denied, and we can safely assume that its imagery and its text were well known to English artists and writers before 1777. Curtis and Resnick provide the following translation by Jennifer Montague of one of the early seventeenth-century Ripa editions:

The personification of Justice is a blindfolded woman robed in white and wearing a crown. . . . She supports a pair of scales in her lap with one hand. Her other hand holds a bared upright sword She is robed in white, for the judge must be without moral blemish which might impair judgment and obstruct true justice.

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twentieth century, ambivalence about the blindfold continued, on both sides of the democratic divide: in 1907, the Prussian Minister of Justice, along with the Minister of Public Works, issued a decree forbidding that any image of justice be depicted with a blindfold; thirty years later, in Newark, New Jersey, the unveiling of a statue of

She is blindfolded, for nothing but pure reason, not the often misleading evidence of the senses, should be used in making judgments. She is regally dressed, for justice is the noblest and most splendid of concepts. The scale, used to measure quantities of material things, is a metaphor for justice, which sees that each man receives that which is due him, no more and no less. The sword represents the rigor of justice, which does not hesitate to punish. . . .

"Images of Justice," 1748-49.

Justitia without her blindfold caused a public row.^{vi}

The roots of this inconsistent blindfold imagery can be traced to several drawings and engravings produced around the turn of the fifteenth century. In 1494, an engraving by Albrecht Durer appeared in The Ship of Fools, by Sebastian Brant, a law professor at the University of Basel. A bestseller in its time, Brant's book used the image of the fool to illustrate the immoral life and ways to avoid it. Durer's print and the accompanying text emphasize that only a fool litigates instead of negotiating, only a fool tries to mislead the judge by presenting empty gossip instead of evidence. With cocky presumption, Durer's fool ties a blindfold around Justitia's eyes [Fig. 1]. As he does so, he steps into a hechel, an archaic tool, made of wood and sharp spikes, used to dig furrows in the ground. A second hechel sticks into his backside. Under the engraving a motto warns, "He who keeps litigating like a child and tries to make truth blind will feel the teeth of the hechel."^{vii}

In 1507 and 1516, the fool and the blindfold move on to Bamberger, where two similar negative images appear, again in illustrations for didactic texts. This time the blindfold appears on a judge, who also wears a fool's cap. Drawing attention to these features, the underlying motto reads, "It's a bad habit to make judgments that go against Justice, but it is this fool's habit to do so."^{viii}

Then, in 1524, a change occurs: in Peter Vischer's allegorical representation of the Reformation, which calls for a just Emperor in the place of the Pope, the Emperor appears seated on a throne in the Palace of Justice, while a naked Justitia, without sword or scales, identifiable only by an inscription, ties a blindfold around his eyes. This

^{vi} See Kissel, Die Justitia, p. 92.

^{vii} This explanation of the *hechel* and the translation of the motto under Durer's engraving come from Otto Kissel's Die Justitia, p. 39. The engraving appears in Plate 27.

^{viii} Kissel, p.42, Plates 29 and 30.

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gesture signifies Justitia's wish that the Emperor render non-partisan decisions. In the blindfolded eyes of Vischer's Emperor, we find for the first time the idealized image of the impartial judge.^{ix}

The move from a fool blindfolding Justitia to Justitia blindfolding an emperor-judge occurs arbitrarily, through similar images with contrary meanings. Such a move must take into account who plays the fool and who plays the judge. Only when Justitia herself blindfolds the judge is justice done; an image of a blindfolded Justice represents some fool's effort to hoodwink Justice, or some judge playing the fool.

We have forgotten this crucial, crooked path of the blindfold's historical development. In place of history, we have installed a tradition based on another forgetting: the failure to separate the idea of justice from the role of the judge. Gradually, and always as part of a political agenda, judges have become identified with the figure of Justice. As kings and queens lost their claims to divine right, and as countries lost their kings and queens, states continued to maintain an affiliation between their secular, governing bodies and the sacred figure of Justice.^x In fact, for over two centuries, in both Europe and the United States, men and women who sit on a court, especially an appellate one, have been called "Justices." Those who impose judgment, with its unavoidable, requisite force, seek to identify themselves with Justice because it is in the name of Justice that the death-dealing violence of the law goes forth.

^{ix} Kissel, p. 47.

^x Efforts to legitimate and elevate secular activities by associating them with the divine receive special emphasis in C. Harbison's The Last Judgment in Sixteenth Century Northern Europe: A Study in the Relation between Art and the Reformation (1976). According to Harbison, depictions of Justice in public forums served as a "prototype for a more earthly, contemporary, immediate adjudicating act"(60). As the world moved away from equating rulers with the divine, rulers nonetheless tried to persuade their subjects that "the sovereign embodied qualities associated with the divine and could render judgment as did God" (64).

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The blindfold on Justitia unfolds the tale. Let us recall what tradition, as opposed to history, reveals about the symbolism of the blindfold on other figures. A blindfolded gaze has conventionally signified a naive perspective on the complexities of human existence, as well as a failure to see the truth. For example, medieval statues of Synagoga, the female figure who represents the Old Testament, show her blindfolded to signify her inability to see the light of Christianity.^{xi} More familiar are images of a blindfolded Cupid, signifying the foolhardy course of romantic love, and images of blindfolded children or adults stumbling about in a game of Blindman's Bluff.

In contrast to these negative connotations, the blindfold on the figure of Justice is supposed to suggest that just judges are impartial, undistracted by biased evidence, unswayed by signs of wealth, rank, or favor. Just judges are also independent, blind to the influence of those who put them on the bench.^{xii} The blindfold thus acknowledges that judges are human and therefore corruptible. By screening out misleading information and improper suggestion, the blindfold insures that judgment springs from inner wisdom and pure reason, from insight and not sight or the other senses.^{xiii}

Impartiality, independence, incorruptibility: all three turn on the blindfold keeping Justice from seeing something with her eyes. But what if the blindfold serves another

^{xi} This interpretation of blindness to Christian revelation occurs in several sources. See Resnick and Curtis, "Images of Justice," for a brief account (pp. 1756, notes 116-18).

^{xii} Kissel traces the popularity of the blindfold after 1500 to the replacement in Northern Europe of lay judges by judges with legal training and, more importantly, to the developing distinction between the state and the judiciary. For Kissel, the blindfold more and more comes to signify the need for the appointed judge to decide cases without regard to the interests of the appointing governor. Impartiality in such cases means an indifference to the state's interests, as opposed to an indifference to the wealth, rank, class or other interests of the litigants. See *Die Justitia*, pp. 87-92.

^{xiii} This emphasis on being blind to sensory distraction is central to Ripa's description of Justitia. See note 5 above.

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purpose? Specifically, what if the blindfold serves to keep us from seeing something in Justitia's eyes? We blindfold Justice not because we want her gaze to avoid certain objects; we blindfold Justice because we want to avoid the object of her gaze.

What lies under the blindfold? Such a fantastic question reminds us that the blindfold functions like a mask or veil that hides something from sight. Like a fetish, it marks an absence with a presence. The blindfold makes us remember what is not there to be seen, but may still be there: two eyes looking.

Speculation about Justitia's eyes raises questions about what is being hidden in images of other blindfolded figures [Fig. 2]. More disturbing and harder to interpret than Cupid or Synagoga are images of the blindfolded victim who faces a firing squad, or the blindfolded woman in male sexual fantasies. What unbearable question do these eyes pose such that they must be covered? Or what unbearable pleasure? What could be worse than a Justitia whose eyes registered a flicker of interest in the violence done in her name? The symbolic order of the law, supposedly empty of any taint of enjoyment, could not sustain such a smear of *jouissance* across its austere visage.

Let us press forward with this question -- and its attendant phantasms -- of what lies under Justitia's blindfold. What if behind the blindfold we discover that Justice really is blind? Her eyes are clear, her gaze opaque. The gaze of the blind is uncanny. Before its objectless stare, we lose our sense of being; we lose the point from which we can say we are subjects because we are seen. The unseeing gaze is "unsightly" precisely because it provokes such anxiety. Thus, we cover the blind eyes of Justice much in the same way that those who are blind wear dark glasses to avoid unnerving those who are sighted.

But if Justice really is blind, how did she get that way? Perhaps she became blind by being forced to bear witness to the atrocities done in her name, under the cover of law. In Pieter Breugel's 1550 engraving, whose English title is simply, "Justice," a female figure, holding a large sword and scales, stands in a public square on a podium inscribed

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"Justitia." [Fig. 3]^{xiv} She wears a blindfold. Immediately around her cluster armed guards and members of the ruling class, while in every corner of the square, vivid scenes of punishment are played out in dire, precise detail. In the foreground, a man lies stretched upon the rack, while another man empties a pitcher into a large funnel thrust into the victim's mouth. Nearby a man bows his head beneath the descending blow of an executioner's axe; on a platform, a bare-chested victim stands tied to a post, withstanding the lash of a whip; to the right, suspended from some kind of pulley, swings a man whose hands and feet have been tied together behind his back. Far in the distance, thick, smoky flames billow into the sky as someone is burned at the stake, and nearby several bodies hang from a gallows. As prisoners are led on and off this public stage, official scribes, in corners, at tables, in small balcony-like structures, record their grim figures. And everywhere, the crowds crowd in, strangely expressionless. Stunned witnesses to the spectacle of law's cruelty, the people seem as impassive as Justice is passive, as mute as she is blind, as silenced as she is blinded.

From the recent killing fields of Cambodia and from Freud come concrete cases and an explanation of a related blindness to cruelty. Doctors in California have reported cases of women, refugees from Pol Pot's reign of terror, who are completely or intermittedly blind, for no physiological reason. Having witnessed massive, systematic killing and torture, often staged before the relatives of the victims, these women lost their sight. Theirs was a trauma so severe that memory of these brutal events became an antagonistic faculty, its imagery immune to repression or integration into some symbolic order.^{xv} For these women, blindness was what Freud calls a conversion reaction,^{xvi} a

^{xiv} The Latin motto that runs under the painting can be roughly translated, "The aim of the law is through punishment to correct the one who is punished, or to improve the others by his example, or to protect the general populace by overcoming the evil." See Kissel, p. 67; Curtis and Resnick, p. 151, note 121.

^{xv} Cite to New Yorker account, 1996, on Cambodian refugees treated by California

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bodily response to some enormous anxiety, a defense against the possession of an unbearable knowledge.

Traumatized by the violence of the law, Justice goes blind; the law refuses to confront this truth, so it ties on the blindfold.

"Trauma" comes from the Greek word for wound. Now imagine that under the blindfold we discover that the eyes of Justice have been gouged out. From this grim visage emerges our memory of Oedipus, who took the law into his own self-maiming hands, indicting, convicting, and punishing himself. In Oedipus, the accused and the judge, the condemned and the executioner, collapse into the same figure, as the order of the law collapses before the violence of divine justice. Or we remember Samson of the Book of Judges, who avenged himself against the Philistines for the loss of his two eyes, thunderously pulling down their temple upon thousands of heads, including his own. Suicide, sacrifice, or cunning revolutionary? Like Oedipus, Samson stands above and beyond the law, shattering its foundations, challenging the law's exclusive claim to violence, confounding its definition of outlaw with the vision of the terrorist, the saint.

The blindfold thus presents a hard question. Which is more profoundly disturbing: the knowledge that the law, which supposedly stands between us and violence, can turn itself into a machine of systematic savagery, or the knowledge that justice, which supposedly legitimizes and limits the law's violence, can dismantle the law to unleash a terrifying violence of its own?

We can begin to answer this question if we remember that Justice comes before the law. The classical mythology of the west teaches that Justice is the Law of law, the ground upon which the law emerges. Justice comes from Dike. In the clear and open

doctors.

^{xvi} Cite to Freud and Breuer, on hysteria, definition of conversion reaction.

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eyes of Justice that we also hide beneath the blindfold, we find the image of this Greek goddess staring us in the face.^{xvii}

Dike is the female deity who orders the life of the world.^{xviii} From Parmenides to Heidegger, she has been seen as the way of all nature, of rivers and beasts, of men and stars, the pulse and rhythm of the universe. Guardian of the doors of Day and Night, she protects the rights of the dead and ordains the rites of Death. In the dim Halls of Hades, Dike turns the wheel of fortune that starts and impels the necessary motion of all things.

The law of Dike is the law of destiny, coming before even the law of the gods. Like the law of the gods, Dike's law is unwritten, eternal, certain. It lives in deeds, not proclamations. Divine in provenance, Dike is private in operation. Her commands are specific, individual. Those who receive them are obliged to respond with immediate, obedient action that does not calculate the consequences.

Dike is, in short, an invincible force of reckoning. Her high priestess is Antigone; her deputies are the Furies. These female figures of tragic, sublime power confront us with the source of violence that makes the law shudder -- the irrepressible desire of Justice, which turns on love, and the drive of Justice, which turns on death.

Philia and *eros*, kinship and love, form the ground on which Antigone rises. In Sophocles's great drama, these forces, like the force of destiny, are unconquerable and inescapable. In its famous ode to love, the Chorus hails Eros as the desire "that looks

^{xvii} According to H. North, in From Myth to Icon: Reflections of Greek Ethical Doctrine in Literature and Art (Cambridge: Cambridge UP, 1979) among the Virtues, only Dikaiosyne (Justice) had a recognizable type in ancient art. North cites Aulus Gellius as emphasizing Justice's "stern appearance and keen gaze" (p. 178, n. 3).

^{xviii} For the information in this paragraph and the next, I have drawn upon Jane Harrison's classic work, Themis: A Study of the Social Origins of Greek Religion (London, 1927) 198-201; 400-404.

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clear from the eyes of a bride: power as strong as the founded world" (798-99).^{xix} *Eros anikate machan* (781), the Chorus declares: Eros, never overcome in battle; Eros, a force of madness, but also revelation; "Eros, the builder of cities" in Auden's great ode to Freud -- this is the Eros that the Chorus envisions *ton megalon paredros en' archais thesmon* (796), seated in judgment next to, or even above, the eternal, unwritten laws.

The magisterial presence of Eros forces us to remember that Antigone is not a woman who acts only out of kinship, nor is she a woman who acts only in response to a command of the gods. She is a woman in love with her brother, and she gives up her life to this love.

That her brother, Polynices, is Antigone's beloved presents a profound scandal. This love finds its most dramatic expression in Antigone's last speech as she is being led into the cave where Creon has ordained that she become a living death. At this moment, all appeals to the gods are over, all arguments spent. Opening with the unforgettable lament, "O tomb, my bridal bed"(891), Antigone addresses her final words directly to Polynices. Never, she explains, if she had been the mother of children, or the wife of a husband, left dead and exposed, never would she have taken it upon herself to bury them in defiance of the law of her people. A husband dead, there might have been another; so too another child, if the first children were lost. But with Jocasta and Oedipus both dwelling in the halls of Death, no brother could ever come forth again (906-11). "For this law alone," she tells Polynices, "I held you first in honor"(912).

These lines so disturbed Goethe that he reportedly told a friend that he would give a great deal to any scholar who could prove they were not authentic. And generations of critics, philologists, and philosophers have tried, without success, to do just that.^{xx} The

^{xix} Sophocles, *Antigone*. Transl. Robert Fagels (Penguin: New York, 1988). Subsequent line references will appear in the main text.

^{xx} Sir Richard Jebb exhaustively reviews the debate, begun as early as 1821 with August

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apparent scandal of Antigone's final justification is that it abandons the universal and unqualified validity of divine law to invoke instead as a principle of ethical action the uniqueness of the dead brother. Such a position has been found unworthy of her character, a casuistical argument of dubious morality, or a last, desperate rhetorical gesture in the dazzling but shallow style of her father.^{xxi}

What remains less remarked upon -- and therefore points to a blindfold -- is how Antigone's love for her brother, sounded both early and late in the drama, resonates with sexual love. Her immortal lines, "I was born not to hate but to love"(523), are voiced in defiance to Creon. But earlier Antigone has told her sister, "If I die in the act, it will be a good death. I will lie loved with the one I love"(73-74). Polynices is not just *philos*, kin, but *philatos*, lover. His uniqueness and her passionate love for him unite to impel her act.

Undeniably, and more disturbingly, the uniqueness of her brother arises from the singularity of his body. It is this incarnate individuality, the self made corporeal, that Antigone addresses when she calls Polynices, "*Kasigneton kara*"(899) -- "beloved head, beloved face of my brother." In its cherished physicality, its one-and-only-ness of bone, skin, and expression, the body, but most of all the face, confronts us with the truth of how the ethical demand, the inescapable summons of Dike, comes not from some law of universality or logos, but from the call of a unique other and from the law of desire.^{xxii}

Jacob's challenge to the passage as spurious, and rather woefully concludes that "Goethe's wish [that the lines are unauthentic] can never be fulfilled." Richard C. Jebb, The Antigone of Sophocles (Cambridge: Cambridge UP, 1966) 258-63; 264.

^{xxi} In his careful, brilliant reading of the play and its histories, George Steiner, concluding that the Goethe-challenged passage is authentic, argues in one vein that Antigone, doomed and god-abandoned, is forced by the enormity of her existential solitude to reach for "this shallow but momentarily dazzling rhetorical ingenuity which marked her father's style." Antigones (Oxford: Oxford UP) 280.

^{xxii} For an elegant, convincing elaboration of this idea, see Costas Douzinas and Ronnie Warrington, Justice Miscarried (London: Harvester Wheatsheaf, 1994) 51-57.

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In refusing to give way on her desire, Antigone performs an ethical act that, for Jacques Lacan, stands against the tradition that associates ethics with universal form and identifies moral action with obedience to the law. What moves Antigone to bury the irreplaceable brother is not a violation of the law but the ground on which all law rises. "Antigone's position represents the radical limit that affirms the unique value of [her brother's] being," Lacan argues, "without reference to content, to whatever good or evil Polynices may have done, or to anything he may have been subjected to."^{xxiii} Arising before the Platonic division between good and evil, or the Kantian distinction between right and wrong, Antigone's act stands on the side of desire, in that "moral extraterritoriality"^{xxiv} where Eros rules apart from the laws of man and alongside the laws that govern the universe.

If Antigone eroticizes the Justice of Dike, the Furies sexualize it. In Aeschylus's great trilogy, The Oresteia, the Furies move us beyond the call of the other to the call of a more radical alterity. Especially in The Eumenides, the last play in the trilogy, law, violence, and justice undergo a transforming agon for which the male-female struggle provides the central metaphor.

The fundamental plot calls for Woman, in the figure of Clytemestra, to rise up against male authority in a patriarchal state. By slaying her husband and choosing her own sexual partner, she pollutes the polis and shatters all social norms. Son Orestes then slays mother, and the mother's Erinyes, or Furies, pursue Orestes in blood vengeance. Apollo intervenes on Orestes' behalf, defending him at a public trial, arguing that the

^{xxiii} In Seminar 7, Lacan undertakes an extended meditation and interpretation of Antigone, seeing in her act the paradigm of psychoanalytic ethics (*ne ceder sur ton desire*), which holds that the only thing that one can be genuinely guilty of is to give way on one's desire. See The Ethics of Psychoanalysis, ed. Jacques-Alain Miller, trans. Dennis Potter (New York: Norton, 1992) p. 279.

^{xxiv} The odd, but fitting term is George Steiner's. Antigones, p.258.

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murder of the mother does not justify the son's death, since the son's homicide is excusable, having avenged the more terrible crime of killing the father. When the jury appears to be either split or narrowly in favor of conviction^{xxv} Athena's role thus can be seen to reflect a more critical view of the trial's procedure, suggesting that without divine intervention, the human law court cannot "do the right thing." In the alternative, her intervention has been interpreted as a critique of the gods' manipulation of the jury's verdict, which accurately reflected both the complexity of the case and a fair judgment in favor of family over state interests. A reproof of Zeus' determination to win at all costs, Athena's tie-making or tie-breaking vote unfairly ensures that the paternal order of the Olympian gods prevails over the maternal chaos of the chthonic Dike. [Cite Zeitlin and other sources marshalled in her article.], Athena casts a vote that determines Orestes' innocence and subdues the wrath of the Furies.

The Eumenides brings the question of justice and the question of the female violently together. According to the vision of Aeschylus, the maternal, infernal Furies

^{xxv} The scholarly debate over how to interpret the jury's vote is complicated by debate over how to read the lines describing the vote and Athena's action in response to it. In addition, some question remains as to the actual Greek practice at trial, although the prevailing practice in Aeschylus' time was to declare an acquittal if the jury was evenly split. Assuming that a tie meant acquittal, one view holds that in Orestes' trial, the jury was split. Athena's vote then simply breaks the jury's tie, but to no legal effect, since Orestes would have been acquitted by the tie vote anyway. Athena's vote thus serves a more ideological purpose, lending divine approval and confirmation to the judgment of the new human law court.

An alternative view holds that the jury was not split; indeed, the jury was in favor of conviction by a margin of one vote. According to this scenario, Athena's vote has a significant impact on the trial's legal outcome, since it brings about the tie that requires an acquittal, effectively reversing the jury's verdict. A related view holds that a split jury meant what it means today: no final judgment, new trial required. In this case, Athena's vote un-hangs the jury, not reversing its verdict, but giving it the additional vote needed to render judgment and finalize the trial.

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represent a justice that is blind, vindictive, regressive, a justice to be suppressed by the new institution of the law court, constituted in the name of the father. Thus, primacy moves from the female to the male, and the blood-cursing Furies become the hearth-blessing Eumenides. Wild justice becomes due process of law.

The Furies speak some of the most memorable lines in The Oresteia. Given their hideous formlessness and hallucinatory power, it is appropriate that they haunt the drama as a voice. Theirs is a stark, principled philosophy:

*We say there are times when fear is good. It must
keep watch at the heart's controls. There is good
in the wisdom won from pain. . . .*

*Refuse the life of anarchy; and
refuse the life devoted
to one master. . . .*

*Bow before the altar of right.
You shall not eye advantage and heel it over
with foot of force. . . .*

*He who does shall smash his ship
on the reef of Right
and drown, unwept and forgotten.^{xxvi}*

The voice of the Furies finds its source close to the source of infernal Dike, in the goddess Praxidike and her representatives, the Praxidikai, or "goddess heads." Theirs is the ritual task of exacting vengeance and guaranteeing, through sacred terror, the

^{xxvi} This quotation and those that follow are taken, with slight modification in line break and pronouns, from Richard Lattimore's translation of Aeschylus' The Eumendides in Greek Tragedies, Volume 3, David Grene and Richard Lattimore, eds. (Chicago: U Chicago P, 1960), lines 516-20; 525-27; 539-42; 564-66. Subsequent line references will appear in the main text.

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inviolability of certain oaths. Praxidike is a *daimon* who finishes things off, bringing both words and deeds literally to a head.^{xxvii} Called mother of the Eumenides, Praxidike is closely associated with the mask of Gorgo, whose most prominent feature is the frontal view of her face. Even when her body and legs appear in profile, as was customary, Gorgo's round, distended countenance is always presented full face to the beholder. To see the Gorgon is to enter into a field of fascination, in an exchange of gazes that is fatal to the mortal being. Although tricked out with tusks and snakes, the Gorgon kills as an incarnate evil eye. A godmother to the tradition of the Furies, the Gorgon lent to them some of her traits, notably the lethal distillation by which the Furies kill: the "loathly rheum" that oozes from their eyes.^{xxviii}

The Gorgo marks the boundary of the world of the dead. And on this border the Furies arise in their terrible, formless monstrosity. Before their staring eyes we come face to face with the radical "other" of divine Justice. This other is represented as a monstrosity beyond the other as a social being and beyond the beloved other of Antigone. For the Greeks, the "other" in a social sense was whoever departed from the model of the Greek male citizen: stranger, woman, slave. But extreme alterity does not involve a departure from a model; extreme alterity marks something other than a difference in kind or degree. Instead, the absolute other emerges from what is revealed as radical

^{xxvii} E.R. Dodds associates Praxidike with the Furies through an original tie to Dike's sister, Moira, or destiny. In classical Greek, destiny or fate always appears in the plural, *moirai*. Eventually personified by Hesiod in the figures of Clotho, Lachesis, and Atropos, *moirai* were earlier associated with other chthonic deities, especially the Erinyes, whom Dodds saw as the personal agents who fulfilled *moira*. "The moral function of the Erinyes as ministers of vengeance derives from the primitive task of enforcing a *moira*," Dodd argues; this *moira* was "at first morally neutral, or rather, it contained by implication both an 'ought' and a 'must' which early thought did not clearly distinguish." The Greeks and the Irrational (Berkeley: U of California P, 1951)8.

^{xxviii} Jane Harrison, Themis, p. 196.

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difference: in place of another person, the other *of* the person: death, night,
nothingness.^{xxix}

"For sheer white robes," the Furies admit, "we have no right or portion"(352).
Draped in garments of dripping blood, these Daughters of the Night are stern and
straight; no persuasion bends them. They bear witness to the truth of one's guilt, and no
one's guilt escapes their judgment. They sing a simple, terrible song:

*We drive through our duties, spurned and outcast
from the gods,
Driven apart to stand in light not of the sun.
Over the beast doomed to the fire
This is our chant:
Scatter of wits,
Frenzy and fear,
Hurting the heart.
Binding brain and blighting blood,
In its stringless melody,
This is the power and the terror
Of our song. (382-85; 328-34)*

Driven apart, the Furies drive on, driving from home those who have shed family
blood. "We are the Angry Ones," they warn. "But we shall watch no more over works/
Of men. And so we act" (499-501). When Athena tries to mollify their wrath, the Furies
curse the younger generation who would tear asunder the ancient law of Dike. Mortified
by their loss of power, they threaten to let drip from their hearts a vindictive poison that

^{xxix} For this conception of the "other" of the person I am indebted to Jean-Pierre
Vernant's discussion about the mask of Gorgo in Mortals and Immortals (Princeton:
Princeton UP, 1991) 111-114.

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will "drag its smear of mortal infection over the whole earth" (787).

In their relentless pursuit of blood vengeance, the Furies confront us with the death drive in its most potent form, a repetition compulsion^{xxx} cycling viciously around the terrifying possibility of the second death -- that death which reaches beyond the individual's mortality to the destruction of the symbolic order itself. "Let Justice be done, though I should perish." So speaks Antigone. "*Let Justice be done, though perish the world!*" So speak the Furies.

The drive of such a furious Justice can be horrifying because behind its implacable demand lies a devastating force. The summons of Dike must be answered, but the goddess forbids her suppliants to come too close. Bewailing Antigone's fate, the Chorus declares, she "went too far, the last limits of daring/ Smashing against the high throne of Dike" (855-57). For George Steiner, this daring to the edge of doom brings us within reach of "a Sophoclean intuition so central that it will not translate out of the eluded logic of choreographed lyric and metaphor." Here, between Dike and her suppliants, we touch on a "charged potential for destruction and self-destruction"; when great enough, this passion entails "privileges of heroic perception [and] transgressive fatality . . . beyond the ethical domain."^{xxxi}

The law of such a passion has been associated by psychoanalysis with an ethics of desire and with a law that comes from the dark region of the unconscious and the drives.

^{xxx} Testifying to their repetition compulsion through their own words, the Furies repeat, verbatim, entire sections of their most furious speeches during the climax of the play. This repetition occurs first when Orestes is tried and acquitted, and later when Athena begins her great work of persuading "the angry ones" to accept transfiguration into the hearth-blessing Eumenides. See, for example, lines 328-333 and 341-346; 778-792 and 808-822; 837-847 and 870-880. No other speakers in the play restate any of their lines; only the Furies repeat in this unwavering fashion.

^{xxxi} Steiner, Antigones, 258.

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Psychoanalysis alone has had the courage to ask, is it not this very drive that inspires our love and desire for Justice? Love, Lacan reminds us, is on the side of desire, not drive. But in any love relationship, desire is the desire of the other, and we forget at our peril that what lies behind the other's desire, and what makes the other person the object of our love, is the other's drive, or unbearable *jouissance*.^{xxxii} In short, what inspires and sustains our love for Justice is drive, that force that impels Justice to act, regardless of pain or consequences, and calls upon us to do the same.

Who answers the ethical summons of such otherness, the summons put to Antigone and the Furies? Fugitives from Justice, in that they come from Justice, those whom Simone Weil called "deserters from the camp of the conquerors" -- the outlaw, the terrorist, the revolutionary, the saint. They keep haunting the law, the law keeps hunting them down.

A nation under laws, a nation like that of Creon's polis or Athena's city state, must refuse love, Dike, and the call of the dead. Such laws teach us that the telos of the family is the polis of the state: the singular subject of the family, who is loved for his existence alone, for what he is and not for what he does, must give way to the citizen of the state, who is valued for his actions. "But it is love alone," Lacan declares, that "allows *jouissance* to condescend to desire."^{xxxiii} Only love, with its insistence on the unique value of the beloved, can bend drive from its ruthless path, which aims at nothing but satisfaction, regarding the object of its aim with complete indifference.

As love comes to stand between desire and drive, so the law must come to stand

^{xxxii} For Lacan, drive is the subject's "true will," but an unconscious one. Drive is something the subject cannot help or stop in him or herself. Drive is paradoxically what attracts us to the other and makes the other the object of our love. For the brief discussion here, I have drawn upon Renata Salecl's chapter, "Love Between Desire and Drive" in *(Per)versions of Love and Hate* (London: Verso, 1999).

^{xxxiii} Jacques Lacan. *Angoisse* (13.3.1963). Unpublished seminar No. 10 (1962-63).

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between the justice of Antigone and the justice of the Furies, for the simple reason that what keeps us in love -- and in life -- is the perpetual motion of desire coming up against the ruthless force of that one blind im-partial drive that finds its satisfaction in death.^{xxxiv} This then is the fate of law, to balance the frustration of desire against the satisfaction of drive: the pitiable pursuit of unattainable justice vs the pitiless release of jouissance. The terrifying irruption of state violence testifies to the law's forgetting that Justice is a drive, but drive is not just.

A necessary aspect of all rationalist politics is a politics of refusal as forgetting. The temporal order of the law of the state is finite. The precedential past comes to serve such an order through a linear temporality, a line that cannot encompass eternity or what Walter Benjamin has called the time of the now. Under such an order, repetition and memory serve therapeutic ends; their aim is to forget what is alien to the law and the state; their aim is to write out what is alien to the person.

But the justice of Dike, the Law that comes before the law, tears a hole in the social fabric that monuments to order and orders of forgetting cannot cover over. What was never fully present to the logos cannot be fully represented, but neither can it be foreclosed and forgotten. The time of Dike stands against the time of institutions, like the time of nature and the time of the unconscious. Dike impresses on us the forgotten but unforgettable desire and drive of Justice, the call of the other of both love and death -- as the gazes of Antigone and the Furies remind us, as a blindfolded Justice would have us forget.

^{xxxiv} As Lacan explains in Seminar 11, all drives are partial drives, except for one. The partial drives circle endlessly around their object, drawing and then deepening the rims of the erogenous zones. The only drive that attains its object, and thus the only non-partial drive, is the death drive. The death drive and the drive of the Furies are thus equally blind, equally unerring in their goal; in their im-partiality, both are lethally just.