THE UNIVERSITY OF CHICAGO

# FURY AT THE LIMITS OF LAW:
# TOWARDS A FEMINIST POLITICAL THEORY OF VENGEANCE

A DISSERTATION SUBMITTED TO

THE FACULTY OF THE DIVISION OF THE SOCIAL SCIENCES

IN CANDIDACY FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

DEPARTMENT OF POLITICAL SCIENCE

BY

AGATHA ANNA SLUPEK

CHICAGO, ILLINOIS

AUGUST 2022

To my parents

**Table of Contents**

## List of Figures

**Acknowledgments**

When I began graduate school, I intended to write a dissertation on the concept of vulnerability in political thought. The irony is not lost on me that I wrote one about vengeance. Writing a dissertation is a good example of where vulnerability and vengeance meet. The process of writing it, revising it, and sharing it is a vulnerable one. The act of finishing may well be an act of vindication—against the anxieties that vulnerability to others elicits, against real or imagined critics, or against a world in which it did not exist. That it began with vulnerability, that is, with a dependence on others, is also how this journey ends. The web of others that have furnished the professional, emotional, and social conditions in which this dissertation could be completed is vast. This note of recognition is but partial.

My deepest gratitude is reserved for Linda Zerilli, absent whose guidance, criticism, encouragement, and intellectual generosity this dissertation simply would not exist. It is from Linda that I learned that gratitude need not be understood in terms of indebtedness at all. As she explains it, gratitude between women expresses not indebtedness as we typically understand it but rather the non-sovereign conditions of female (and feminist) freedom. Still, Linda's steadfast support of this project—from its faintest existence as an idea—and her critical feedback on many, many drafts is a debt I can never hope to repay. Demetra Kasimis has been an important mentor, interlocutor, and advocate in my years at Chicago. Her prying questions, intellectual curiosity, theoretical rigor, feedback, and professional expertise greatly enriched this project and my time in graduate school. Chiara Cordelli, too, has been a great source of inspiration, guidance, and insight. Her expertise in political philosophy always challenged me to think about the questions animating this project with a renewed sense of clarity and urgency. Her support of, feedback on, and criticism of my work has been invaluable.

At the University of Chicago, I have benefited from guidance and feedback from Faculty in Political Science, among which I would like to thank Gary Herrigel, Matt Landauer, Patchen Markell, Sankar Muthu, Jennifer Pitts, and James Wilson. My cohort in Political Science, too, has been a constant source of inspiration and support. I would like to thank Aylon Cohen, Alex Chinchilla, Cameron Cook, Jordie Davies, David Knight, Marcus Lee, and Larry Svabek for their comradery and support. Outside of the Department of Political Science, the Center for the Study of Gender and Sexuality has been my second intellectual home. At the Center, I thank Bonnie Kanter, Tate Brazas, Gina Olson, Kristen Schilt, Sarah McDaniel, Emily Bock, Annie Heffernan, Caroline Sequin, Rose Owen, Silvia Fedi, Paula Martin, Paul Cato, and Lara Janson. I have been lucky to make many friends and find excellent interlocutors in graduate school. To their support in one capacity or the other, I thank Dalaina Heiberg, Eilin Rafael Perez, Uday Jain, Hilary Tackie, Dylan Bellisle, Andrew Seber, Tessy Schlosser, Isaac Stethem, and Jordan Johansen. I also wish to thank the cute tomato from tomatotimers.com, absent whose reminders to focus in the midst of a global pandemic, this dissertation may not have been completed on time.

For their financial support of this project, I thank the Pozen Family Center for Human Rights, the Center for the Study of Gender and Sexuality, the Department of Political Science, and the France Chicago Center. My last and most significant thanks go to my partner Ben Bertin. His patience and love in and despite my moments of myopic academic narcissism is gratefully acknowledged. Ben always knew when to let me stew in revisions and when, instead, to encourage me to head to the movies or go for a long hike. Our cats Lexie and Bopha deserve my acknowledgments as well, for enriching our lives and making them chaotic, in turn. Finally, this dissertation is dedicated to my parents, Alexandra Sosnowski and Wojtek Slupek. I thank them for nurturing the love of thought in me at an early age.

**Abstract**

This dissertation critically examines the gendered features of the liberal democratic tradition's longstanding repudiation of vengeance as inimical to political life. Liberal societies purport to have transcended private vengeance as a means of dispute settlement in favor of public means of resolution in and through law. Existing research in political theory approaches the problem of vengeance and its attendant states like anger and resentment instrumentally, considering their utility or inutility to flourishing public spheres. This way of framing the problem of vengeance, I argue, fails to account for its gendered figuration. Though men too can figure as agents of vengeance, their ventures beyond the law are typically portrayed as righteous defenses of its normative foundations. Women, by contrast, are often portrayed, from Greek tragedy to our own day, as voicing claims that are not incidentally but by definition outside the law: claims that bring its normative order into question.

More than a critique of the gendered grammar by which women's claims to justice tend to be reduced to cries for vengeance, this dissertation explores how women and other feminized groups creatively negotiate the terms of their figuration as agents of vengeance to challenge our very understanding of what counts as a matter of public justice. By way of three substantive chapters analyzing historical and contemporary examples of women's speech – as represented in Greek tragedy, in 20th century French theater and protest, and in contemporary American courts of law and public spheres – I track the ways in which the specter of the vindictive woman whose defiant speech threatens to upend order continues to shape our understanding of what justice is and of who can properly be said to be laying claim to it.

## Chapter 1. INTRODUCTION
## Fury at the Limits of Law

> Justice wasn't made to be fair. It was made to […] divide up everything that exceeds, to repress the sobs. […] Justice is the smooth management of Injustice.[1]

> To think about justice beyond the legitimating constraints of fairness, certainty, and the balancing of interests is no doubt hard. Seen from the side of the avenger, however, justice resists precisely the security that modern man most craves.[2]

On March 16th 2022, the United States Justice Department applauded the 117th Congress's re-authorization of the Violence Against Women Act (VAWA). The Act was first passed as part of President Bill Clinton's 'Crime Control' Bill in 1994, with current U.S. President Joe Biden, then a Democratic Senator from Delaware, playing a critical role in drafting the initial bill. The Act's reauthorization in 2022 was meant to mark the Biden administration's commitment to safeguarding and expanding the protections it initially inscribed into law for survivors of sexual violence, abuse, and harassment.[3] The Act's re-authorization this year attempted, as its language made clear, to avoid re-inscribing limited understandings of who constitutes a person vulnerable to sexual harm, as the original act was criticized for doing by feminists and non-feminists alike.[4]

---

[1] Hélène Cixous and Lara Stevens, *Politics, Ethics and Performance: Hélène Cixous and the Théâtre du Soleil,* trans. Lara Stevens (Melbourne: re.press, 2016), 94-96. My modification of Stevens' translation.

[2] Roger Berkowitz, "Introduction: Revenge and Justice." *Law, Culture and the Humanities* 1, no. 3 (2005): 281.

[3] While it is common knowledge today that the lives of men and boys are also affected by sexual violence, it remains the case that most survivors of sexual violence in the U.S. are women, girls, and gender non-conforming people. See RAINN, "Victims of Sexual Violence: Statistics," https://www.rainn.org/statistics/victims-sexual-violence.

[4] See, e.g., Leigh Goodmark, *A Troubled Marriage: Domestic Violence and the Legal System* (New York: New York University Press, 2011); Abigail Higgins and Olúfémi O. Táíwo, "How

The re-authorized Act, for instance, expands the categories of people affected by sexual violence, including expansions of services to underserved communities, among which it includes survivors among Native Americans, LGBTQ individuals, immigrants, and individuals with disabilities. Commenting on the Act's re-authorization, Biden referred to VAWA as an "essential law," initially passed at a time when "domestic violence [was too often seen] as a 'family issue,' with legal and social burdens placed on survivors rather than perpetrators."[5]

In the President's rhetoric, one can hear how the second-wave feminist claim that 'the personal is political' has ascended to the level of a commonsense.[6] In spirit, the re-authorized Act seems also to have responded to the third-wave feminist expansion and critique of the category of woman itself.[7] If domestic violence remains a key means by which gendered inequities in society are maintained, the Act's re-authorized version has more than its original to say about another site where gendered harm takes place and through which structures of gendered inequality are reproduced: namely, the workplace. According to the U.S. Equal Employment Opportunity Commission (EEOC), one in four women face harassment in the workplace.[8] The newly re-

---

The Violence Against Women Act Failed Women," *The Nation,* March 23, 2021, https://www.thenation.com/article/society/violence-against-women-act/.

[5] The White House, "Statement by President Biden on the Introduction of the Violence Against Women Act Reauthorization Act of 2022," February 9, 2022, https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/09/statement-by-president-biden-on-the-introduction-of-the-violence-against-women-act-reauthorization-act-of-2022/.

[6] See Renee Heberle, "The Personal is Political," in *The Oxford Handbook of Feminist Theory*, eds. Lisa Disch and Mary Hawkesworth (New York: Oxford University Press, 2016), 593-609.

[7] For a useful overview of what have come to known as the 'category of woman' debates, see Mary G. Dietz, "Current Controversies in Feminist Theory," *Annual Review of Political Science* 6, no. 1 (2003): 399-431.

[8] Equal Employment Opportunity Commission, "Special Report: Women in the American Workforce," https://www.eeoc.gov/special-report/women-american-workforce.

authorized VAWA act adds to Section 702 of the original a new paragraph that focuses specifically on the workplace.[9]

For all its seeming attention to forms of gendered injustice that have been brought to light by feminist and feminist-allied social movements—including the campaigns for justice for Missing and Murdered Indigenous Women (MMIW), #MeToo, #TimesUp, the International Women's Strike, and the #Fightfor15—the VAWA nevertheless takes aim largely at service provision after violence has taken place, as well as after it has been reported to state authorities. The EEOC estimates, however, that 75 percent of all workplace harassment incidents go unreported. Reasons for this underreporting vary, but they most often have to do with conditions of vulnerability—be they economic, social, or physical—that the Act, as currently formulated, seems incapable of addressing. If the law has gone some way in diversifying the legal referent of the category 'woman', the question remains: can the gendered forms of injustice experienced by women that are sexually harassed or assaulted in poorly-paid, non-unionized, and precarious jobs be solved by means of law?

While the "BE HEARD in the Workplace Act," introduced in 2019 by Sen. Patty Murray, Rep. Ayanna Pressley, Rep. Katherine Clark, Rep. Elissa Slotkin, and Rep. Debbie Mucarsel-Powell seeks to bolster protections for people working in lower-wage jobs, specifically targeting

[9] The Section is titled "National Resource Center on Workplace Responses to Assist Victims of Domestic and Sexual Violence." It states that the Act will create "A plan to enhance the capacity to obtain and maintain employment to include the implementation of a demonstration pilot program 'Pathways to Opportunity' which builds collaborations between and among victim service providers, workforce development programs, and educational and vocational institutions to provide trauma informed programming to support survivors seeking employment and centered around culturally specific organizations or organizations that primarily serve populations traditionally marginalized in the workplace." Text - H.R.1620 - 117th Congress (2021-2022): Violence Against Women Act Reauthorization Act of 2021. (2021, October 5). https://www.congress.gov/bill/117th-congress/house-bill/1620/text.

employers' use of non-disclosure and forced arbitration clauses in employee and union contracts, this latter more class-conscious bill has yet to become law.[10] The freedom of employers to dictate the terms of employment has yet to adequately be restrained, even if the workplace and worker justice more broadly have come to be recognized as key issues in the contemporary intersectional gender justice agenda advanced by both progressive Democrats and contemporary feminist activists and theorists.[11] A hotel employee in Chicago, for instance, whose first language is not English and whose employment is precarious and non-unionized—whose working conditions leave her vulnerable in more ways than one—is not made safer or more empowered by either Act. To-date, tangible improvements in working conditions for her, and countless others like her, have come not from federal legal protections but from the coordinated and extra-legislative actions of individuals organizing collectively to contest patriarchal social conditions that cannot be legislated away. Yet women's extra-juridical pursuits of justice face discursive and ideological challenges that are not absent from, but are often tempered when, they claim to act and to speak under the auspices of law.

Recent efforts by women making claims to justice in and on the broader democratic public sphere have taken their authorization not from law—nor even necessarily from rights discourse—

[10] H.R.2148 - 116th Congress (2019-2020): BE HEARD in the Workplace Act. (2019, May 3). https://www.congress.gov/bill/116th-congress/house-bill/2148.

[11] See, for instance, the "Guiding Vision and Definition of Principles" put together and published ahead of the Women's March by the organizers of the January 19th, 2019 Women's March on Washington; see also Cinzia Arruzza, Tithi Bhattacharya, and Nancy Fraser, *Feminism for the 99%: A Manifesto* (New York and London: Verso, 2019); Ashley J. Bohrer, *Marxism and Intersectionality: Race, Gender, Class an Sexuality Under Contemporary Capitalism* (Bielefeld: Transcript-Verlag, 2019); Jill Richards and Silvia Federici, "Every Woman is a Working Woman," *Boston Review,* December 19, 2018, https://bostonreview.net/articles/every-woman-working-woman/.

but from the very multitude making up their collective feminist voice itself.[12] The revival of the #MeToo movement in the Fall of 2017 is one example, and it was a watershed moment in feminist politics. Women and survivors of sexual violence were newly empowered to take up a public voice, challenging the hierarchies in society and in the workplace that too often render survivors silent. #MeToo's effects continue to be felt around the world today, with many crediting the movement with the resignations of top male officials from office as well as renewed pressure for legislative reform in countries like France, India, and Canada.[13] #MeToo spearheaded organizational collaborations with the National Domestic Worker's Alliance (NDWA) and has also grown under the umbrella of #TimesUp—an organization specifically targeting workplace violence and harassment.

#MeToo's successes for survivors of sexual violence continue to reverberate, but the movement has faced significant criticisms for going too far,[14] for threatening to undermine due process,[15] and especially, for representing a vengeful, vigilante-style justice that is destructive of the very foundations of democratic exchange.[16] By challenging a strictly legalistic approach to the problem of sexual violence and bringing claims of injustice into the uncertain, polarized, and

[12] See Verónica Gago, *Feminist International: How to Change Everything,* trans. Liz Mason-Deese (New York and London: Verso, 2020).
[13] Ann M. Noel and David B. Oppenheimer, Eds. *The Global #MeToo Movement: How Social Media Propelled a Historic Movement and the Law Responded* (Washington, D.C.: Full Court Press, 2020).
[14] Laura Kipnis, "Has #MeToo gone too far, or not far enough? The answer is both." *The Guardian,* January 13, 2018, https://www.theguardian.com/commentisfree/2018/jan/13/has-me-too-catherine-deneuve-laura-kipnis.
[15] Tovia Smith, "On #MeToo, Americans More Divided by Party Than Gender." *NPR,* January 13, 2018, https://www.npr.org/2018/10/31/662178315/on-metoo-americans-more-divided-by-party-than-gender.
[16] Samantha Rose Hill, "When the Private Becomes Political." *The Philosophical Salon*, June 11, 2018, https://thephilosophicalsalon.com/when-the-private-becomes-political/.

messy terrain of the contemporary public sphere, the movement has revealed that the line between vengeance and justice is fragile, contingent, and contestable. Indeed, criticisms of the movement as vengeful have been advanced by women as well as men, including by feminists. How are we to make sense of them? Is #MeToo a movement whose end is vengeance or justice?

The answer to this question requires closer theoretical attention to the political anxieties that are elicited by the figure of the vengeful woman who threatens to upend political order. Such anxieties that can be traced back to classical antiquity, but find their fullest elaboration in modern liberal political thought. Explains Carole Pateman, "it is only with the development of liberal individualism" that beliefs about women come to constitute an acute "problem in social and political theory and practice."[17] If such modern figurations of women as having "disorder at their very centers" may strike us today as abhorrent, this dissertation argues that they continue to play a role in demarcating the boundaries of the sphere of justice.[18] The persistence of these figurations of women as disorderly are especially palpable in normative judgments that are made about practices of women's public speech in contemporary democratic societies, like those initiated by #MeToo, which are interpreted as inducing moral panics that "exist in the region of raw emotion, the region of danger and fury," to quote but one commentator on the movement.[19] When women articulate their claims to justice in public in a manner that challenges the reduction of justice to law, this dissertation will argue, their claims risk always already sounding like cries for vengeance, rather than justice.

---

[17] Carole Pateman, "'The Disorder of Women': Women, Love, and the Sense of Justice." *Ethics* 91, no. 1 (1980): 21.
[18] Pateman, "The Disorder of Women," 22.
[19] JoAnn Wypijewski, *What We Don't Talk About When We Talk About #MeToo: Essays on Sex, Authority, and the Mess of Life* (New York and London: Verso, 2020), xvi.

This discursive overdetermination of women's speech acts is significant because a dichotomous relationship between vengeance and justice tends to be taken for granted in liberal political theory. The liberal tradition has long repudiated vengeance as inimical to public and political life—a realm to which, in the liberal political imagination, justice alone lays claim. Vengeance is typically understood to refer to a desire that is at its core irrational—even uncivilized. For Martha Nussbaum, to desire revenge or to act out of a spirit of vengefulness is also to be profoundly mistaken about one's capacity to affect the world. We pity the avenger, even if we may fear her wrath, on this view, because we see that some harm that she has suffered – toward which her ire is directed – has come to narrow and distort her vision. On this view, we may say of her that she is stuck in the past, or else, that she has mistaken fantasy for reality.[20]

Unlike anger, then, which theorists of morality and of politics have shown to be an admissible and sometimes rational response to either harm or injustice in democratic societies, vengeance marks the limits of liberal political theorists' appreciation of the role played by emotions in political life.[21] On the received view, "the intoxication of sweet revenge" pulls individuals to take refuge in the realm of the fantastical, rather than to take residence in and responsibility for the real world in which the work of politics and of adjudication takes place.[22]

---

[20] Martha Nussbaum, *Anger and Forgiveness: Resentment, Generosity, Justice* (New York: Oxford University Press, 2016).

[21] Amia Srinivasan, "The Aptness of Anger," *The Journal of Political Philosophy* 26, no. 2 (2018): 123-144; Agnes Callard et al., *On Anger* (Cambridge, MA: MIT Press/*Boston Review Forum,* 2020); Terry K. Aladjem, *The Culture of Vengeance and the Fate of American Justice* (Cambridge, UK: Cambridge University Press, 2008); Sonali Chakravarti, *Sing the Rage: Listening to Anger After Mass Violence* (Chicago: University of Chicago Press, 2014); Alice MacLachlan, "Unreasonable Resentments," *Journal of Social Philosophy* 41, no. 4 (2010): 422-441.

[22] Friedrich Nietzsche [1887], *On the Genealogy of Morals and Ecce Homo.* Trans. Walter Kaufman and RJ Hollingdale (New York: Vintage Books, 1989), 48.

Implicit to this view is the proposition that vengeance and justice are merely different means to an end that they presumably share: the former means are personal, private, and often violent, while the latter are or can be public and procedural. Part of this dissertation's task will be to show how the fact that vengeance and justice are thought of as merely different means to the same end is itself symptomatic of a conceptual narrowing that has equated justice with legal resolution.[23]

Conceived of as a means, justice is thought to remove or at least to pacify the personal and relational components ascribed to vengeance, that, it is thought, were they allowed to shape norms of dispute settlement in a society, would ensue in reactive cycles of suffering. To pursue justice justly, on this view, is to inscribe a gulf between one's experience of harm and the procedure through which the perpetrator or perpetrators of that harm be judged. It is to be committed to the ideal of impartiality, which finds its pinnacle in the figure of a blind-folded woman. This is the only figure that could, writes Martin Jay, "avoid the seduction of images and achieve the dispassionate distance necessary to render verdicts impartially."[24] Yet in modern liberal democracies, the blind-folded woman's figuration as emblematic of law's neutrality performs a

[23] Dictionary definitions of vengeance reflect this assessment, stressing its intentional and relational components (i.e., indicative of a subjective and thus non-universalizable perspective) in turn. Merriam-Webster, for instance, defines revenge as "an act or instance of retaliating in order to get even." "Revenge." *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/revenge. On this definition, vengeance is aimed towards persons that have directly aggrieved oneself or someone in one's personal sphere of concern. The Cambridge Dictionary online goes a bit further, defining vengeance as "the punishing of someone for harming you or your friends or family, or the wish for such punishment to happen." "Vengeance," *Cambridge Dictionary Online,* Cambridge Dictionary, https://dictionary.cambridge.org/us/dictionary/english/vengeance. In this definition, the relational component of vengeance is filled out psychologically, suggesting that personal means of dispute settlement are accompanied by desires to see suffering.

[24] Martin Jay, "Must Justice be Blind?: The Challenges of Images to the Law" in *Law and the Image: The Authority of Art and the Aesthetics of Law,* Eds. Costas Douzinas and Lynda Nead (Chicago: University of Chicago Press, 1999), 19-35, 21.

double-operation. It simultaneously includes flesh-and-blood *women* into the sphere of justice while representing law as transcendent of *woman* and everything else she represents in the patriarchal imaginary we inherit, such as partiality and uncivilized passion and sentiment.[25] As I will elaborate, it is no accident that woman—this time, with eyes wide open, indeed, eyes dripping with blood—is figured as an agent of vengeance in the same modern liberal imaginary.

Woman, like vengeance, is an unstable figure that sits at the margins of the spheres of law and justice. Her spectral presence there renders her a 'constitutive outside', which, to invoke Chantal Mouffe's explanation of the Derridean notion,

> In order to be a true outside […] has to be incommensurable with the inside, and at the same time, the condition of the emergence of the latter. This is only possible if what is 'outside' is not simply the outside of a concrete content but something which puts into question 'concreteness' as such.[26]

As both the condition of the emergence of modern justice—insofar as she marks that which must be blind-folded in order for its operations to ensue but cannot be wholly excluded from it—woman places the concreteness of law, conceived of as impartial and rational, into question.[27]

Taking the moments in which vengeance appears alongside the figure of woman in political theory, in 20th century feminist art, and in contemporary public spheres as its point of departure, this dissertation attends to the ways in which the boundaries of what counts as a political claim to justice, rather than a private claim to vengeance, take shape and are contested. I argue that the

---

[25] For woman's figuration in these terms in the history of political thought, see Carole Pateman, *The Disorder of Women: Feminism, Democracy, and Political Theory* (Stanford, CA: Stanford University Press, 1989); Linda M.G. Zerilli, *Signifying Woman: Culture and Chaos in Rousseau, Burke, and Mill* (Ithaca, NY: Cornell University Press, 1994).
[26] Chantal Mouffe, *The Democratic Paradox* (New York and London: Verso, 2000), 12.
[27] For a study of statues of justice that have attempted to challenge this relationship between vision and gender, see Judith Resnik and Dennis Curtis, "Why Eyes? Color, Blindness, and Impartiality," in *Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms* (New Haven, CT: Yale University Press, 2011), 91-105.

stability typically ascribed to these boundaries assumes a grammar of justice that is always already legalistic—one that we in contemporary democratic societies have inherited from modern liberal political thought, as well as from functionalist and evolutionary accounts of the emergence of modern legal systems.[28] Existing research in democratic theory tends to approach vengeance instrumentally, asking after its utility or inutility in sustaining flourishing public spheres.[29] In so doing, this research reveals its investment in a view of rhetoric as supplemental to, rather than constitutive of, linguistic meaning.[30] Contesting this view of public speech as merely conveying a pre-existing meaning, I argue that vengeance can be approached as a figural term that reveals a public common sense.[31] Put differently, rather than ask whether speech acts we already interpret as vengeful contribute to or take away from the shared project of democratic life, my project suggests we ask instead how our interpretations of these speech acts themselves participate in creating the framework of thought from which we judge. Conceived of in this way, vengeance can be seen to inform and circumscribe normative judgments as to the felicity or infelicity of practices

[28] David Cohen, *Law, Violence, and Community in Classical Athens* (Cambridge, UK: Cambridge University Press, 1995).
[29] By 'pubic sphere' I mean, most simply, an arena of discourse. Nancy Fraser helpfully explains how Jürgen Habermas' sense of the term, while its uses vary, "designates a theater in modern societies in which political participation is enacted through the medium of talk […] an institutionalized arena of discursive interaction" that is conceptually distinct from the state. See Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," *Social Text* 25/26 (1990): 56-80, 57.
[30] On the relationship between the turn to rhetoric in political theory and the primacy of deliberative approaches to democracy, see Bryan Garsten, "The Rhetoric Revival in Political Theory," *American Political Science Review* 14, no. 1 (2011): 159-180.
[31] This approach draws from the rhetorical tradition, more specifically from Ernesto Grassi, *Rhetoric as Philosophy: The Humanist Tradition* (University Park and London: The Pennsylvania State University Press, 1980), 96-101.

of public speech and action in democratic societies.[32] Such judgments, I show, tend to track gendered, commonsense understandings of what counts as a public and political, rather than a personal and private, matter of concern.[33]

Important for my purposes is that such judgments are not restricted to the substance of political claims but apply equally to the form in which they are enunciated in the public sphere. In other words, the spaces of appearance in which women's claims to justice appear (in the court of law, in the streets, or in art) and the manner in which they are enunciated (procedural, accusatory, or creative) affect their uptake as politically substantive—this, whether they have to do with subjects typically recognized as political, such as rights and duties, or subjects typically thought of as private, such as sexuality or family life. As feminist and democratic theorists alike have shown, the process by which something becomes political is not cut-and-dry. It depends on the concerted effort of a group for whom a concern is recognized as unjust or harmful in some way to articulate its political substance in a way that can be shared with and understood by others.[34]

When I refer to vengeance throughout this dissertation, I am ultimately tracking the moments when that process of articulation falters or fails. I attend to the moments in which, to invoke Jacques Rancière's understanding of activity of politics, "the bringing into relationship of two unconnected things becomes the measure of what is incommensurable between two orders," revealing universals like 'justice' and 'law' as particularized ones, the concreteness of which

---

[32] See Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton, NJ: Princeton University Press, 1995); Chakravarti, *Sing the Rage*, Aladjem, *The Culture of Vengeance.*

[33] The division drawn between these spheres is the ultimate political act. See Hanna F. Pitkin, "Justice: On Relating Private and Public," *Political Theory* 9, no. 3 (1981): 327-352; Judith Shklar, *The Faces of Injustice* (New Haven and London: Yale University Press, 1990), 7.

[34] Linda M.G. Zerilli, *Feminism and the Abyss of Freedom* (Chicago: University of Chicago Press, 2005).

charges of vengeance leveled against women seeking justice call into question.[35] In the chapters that follow, I track the ways in which the manner of articulating something as political and thus as deserving of public action and concern comes itself to be perceived as lacking in either legitimacy or authority. Vengeance, I show, tends to stand in for the antithesis of each of these evaluative concepts as they are applied to women's speech acts, in turn.

The upshots of this study are both conceptual and practical. Conceptually, my study of three compromised attempts of feminized people's public attempts at claiming justice shows how the liberal legalistic framework blinds us to the political substance of claims that challenge its reductive and individualizing paradigm. Practically, my study provides an account of this ideological and rhetorical process of blinding, and thus, with a skeletal roadmap of how feminist actors might, or do, either challenge or subvert it in practices of contestation, public appearance, and creative re-signification.

Reckoning with an overdetermined discursive situation in which feminized claims to justice tend to be dismissed as vengeful may lead feminists to eschew the institutions of law in their political projects all together, seeking out alternative vocabularies through which to articulate a kind of justice that law, as it is currently practiced, forecloses. They may do so in the terrain of aesthetics, as I show Hélène Cixous with Ariane Mnouchkine's Théâtre du Soleil to do in Chapter 3. These practices of imaginative re-figuration do not deny that law could ever deliver justice, but rather, reveal the ways in which it presently falls short of doing so and offer alternatives to its reductive categories of harm and redress. The overdetermination that meets women's public speech may lead feminists, alternatively, to attempt to challenge law's claims to universality and

[35] Jacques Rancière [1995], *Dis-agreement: Politics and Philosophy,* trans. Julie Rose. (Minneapolis and London: University of Minnesota Press, 1999), 42.

to uncontestable sovereignty from within its bounds, as I suggest we see Aeschylus' Furies do by way of their oath-challenge in the *Eumenides* in Chapter 2.[36] Or, it may lead feminists to creatively negotiate the strictures imposed upon women's speech acts by juridical categories in service of a broader political project of their contestation and transformation, as I show women in the contemporary #MeToo movement to do in Chapter 4.

This dissertation's negative charge is that liberal legalism blinds us to the political substance of practices and claims to justice that it does not recognize as such – the kinds of rhetorical acts it deems defamatory, vindictive, or worse still, discards as products of hysteria. Recognizing the limitations of legalism through the lens of its persistently gendered figuration of vengeance enables feminists to newly appreciate the centrality of practices of public speech and action to their projects of social transformation, as well as to better understand their own affective aversions to or affinities with tropes of vengeance and fury, as well as to law—a vexed question in contemporary feminist politics, to which I return in Chapter 4.[37] To be clear, this dissertation does not advance a normative defense of individual or collective acts of vengeance. Instead, I critically examine cases of women's interpretation as vengeful upon their public activities of claiming justice to show political theorists how these moments can be read as providing insights

[36] Nietzsche writes, "A legal order thought of as sovereign and universal, not as a means in the struggle between power-complexes but as a means of *preventing* all struggle in general […] would be a principle *hostile to life,* an agent of the dissolution and destruction of man." Nietzsche, *Genealogy of Morals,* 76.

[37] The extant relationship between feminist theory and politics and themes of anger, rage, and vengeance has been the subject of significant debate. Some representative examples include Myisha Cherry, *The Case for Rage: Why Anger is Essential to Anti-Racist Struggle* (Oxford: Oxford University Press, 2021); Brittney Cooper, *Eloquent Rage: A Black Feminist Discovers Her Superpower* (New York: St. Martin's Press, 2018); Rebecca Traister, *Good and Mad: The Revolutionary Power of Women's Anger* (New York and London: Simon & Schuster, 2018).

into the limits of legalistic understandings of political justice—of what it is, who can claim it, and what it ought to be.

In the remainder of this introductory chapter, I begin by defining liberal legalism—the conceptual and practical background against which I argue justice comes to appear as the opposite and transcendence of vengeance. Next, I briefly track the gendered ways in which vengeance has been figured in the history of political thought. Lastly, I lay out the stakes that are involved in conceiving of politics as a claims-making activity, rather than a primarily deliberative one. Understanding politics in this way, I suggest, allows us to see how vengeance is a contested site of meaning that confronts people's attempts at making political claims in and on the public sphere. My hope is that this dissertation will begin to provide an account of the political meaning of feminists' many creative adoptions of symbols of vengeance in their pursuits of justice. Such attempts at re-figuration, I will begin to suggest in Chapter 3, ought not be interpreted as containing substantive visions of justice, but rather, as reminders of, first, the ways in which liberal democratic societies fall short of justice, and second, how practices of speech and contestation can reveal the contingency of, and thus the malleability inherent in, the social meanings of justice and democracy alike.

**Three Faces of Liberal Legalism: Ideal, Ideology, and Political Strategy**

Despite law's persistent failures in delivering justice, the belief that it is uniquely capable of righting wrongs remains pervasive. Even to speak of 'law' in the singular is to betray a level of buy-in to Ronald Dworkin's thesis that we are "subjects of law's empire," that is, that we "live in and by law" and that it makes us what we are—women, men, citizens, or foreigners.[38] To speak of

[38] Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986), vii.

law in the singular—rather than of particular constitutions, statutes, or bills—itself contributes to the mythology that sustains the operation of modern legal systems: namely, that law is a unified system that stands above morality and politics, even while it is frequently called upon to serve their particularistic ends.[39] Law's grammatical singularity cordons it off as a separate domain of knowledge, action, and inquiry even while it bolsters its claim to universality and objectivity. Law's pretenses to this transcendental position have been the subject of numerous critiques, marshaled by feminists and non-feminists alike.[40] Where earlier feminist criticisms took aim at law in the singular (among other abstract universals, such as reason, nature, and objectivity), recent criticism has taken aim at the practical and ideological program that law's grammatical singularity sustains: liberal legalism.

In this section, I track how liberal legalism has been defined, practiced, and critiqued. The variety of definitions of legalism among both its defenders and its critics only reveals, to my mind, the deep and continued hold of law's myth of transcendence. Liberal legalism may be defined as an ideology, a philosophical ideal, or a political strategy—in fact, it is all of these.[41] The many attempts to capture liberal legalism as a fixed object have led to disparate accounts of the nature of its promises, ills, and spaces of appearance. I trace first how political and legal theorists have

---

[39] Peter Fitzpatrick, *The Mythology of Modern Law* (London: Routledge, 1992). See also Max Horkheimer and Theodor W. Adorno [1944], *Dialectic of Enlightenment: Philosophical Fragments,* eds. Gunzelin Schmid Noerr. trans. Edmund Jephcott (Stanford, CA: Stanford University Press, 2002).

[40] This literature is too extensive to document here but includes the traditions of Marxism and Frankfurt School critical theory, as well as more recent schools of thought such as Critical Legal Studies and Critical Race Theory.

[41] That it is so difficult to describe, to invoke Simone de Beauvoir's remarks on Woman (here, too, as she is written in the singular), lends it the status of a myth, which "does not lend itself to being grasped or defined; [but] haunts consciousness without ever being posited as a fixed object." Simone de Beauvoir [1949], *The Second Sex,* trans. Constance Borde and Sheila Malovany-Chevallier (New York: First Vintage Books, 2011)*,* 162.

defined liberal legalism, before moving on to provide an account of feminism's vexed relationship to law and to legal rights as a political strategy. I identify three faces of liberal legalism: as an ideal that subtends rationalist theories of democracy,[42] as an ideology that shapes our perceptions of legal trials, and as a political strategy that places law and legal rights at its center. [43] Taken together, I suggest, these faces constitute and sustain the mythology of modern law, which claims to break with the mythical violence of revenge and curse where it might be more accurately described as having usurped their prior authority and dressed it in a new garb.[44] Dis-entangling these three faces of liberal legalism allows us to assess its merits and weaknesses as a framework through which to approach questions of justice and injustice in democratic societies, as well as to see how its "morality of rule-following," to speak with Judith Shklar, creates the discursive conditions in which claims that seek to challenge its rules come to be perceived as vengeful.[45]

*Legalism as an Ideal*

[42] Some would argue that in as much 'the rule of law' or legalism is an ideal, it just is an ideology. For my purposes it remains useful to distinguish these faces of the legalism, insofar as I see them as making distinct assumptions about, first, the nature of the individual, and second, the nature of the relationship between law and politics. See Allan C. Hutchinson and Patrick Monahan, *The Rule of Law: Ideal or Ideology* (Toronto: Carswell, 1987).

[43] The language of 'faces' is a nod to Iris Marion Young's classic 1990 essay, "Five Faces of Oppression," in which she sought to clarify the meaning of the concept of oppression as it was used in the context of ordinary social movements. For my purposes, the 'faces' of liberal legalism, too, need to be disentangled, so as to clarify the distinctiveness of my contribution and its relationship to criticisms of law, feminist and non-feminist alike, that have preceded it. See Iris Marion Young [1990], *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 2011).

[44] Christopher Menke, "Law and Violence," *Law and Literature* 22, no. 1 (2010): 1-17; Danielle Allen, *The World of Prometheus: The Politics of Punishing in Democratic Athens* (Princeton, Princeton University Press, 2000); Walter Benjamin [1921], *Toward the Critique of Violence*: *A Critical Edition,* eds. Peter Fenves and Julia Ng (Stanford: Stanford University Press, 2021).

[45] Judith Shklar [1964], *Legalism: Law, Morals, and Political Trials* (Cambridge, MA: Harvard University Press, 1986), 87.

In much of liberal political theory, law lies at the core of the political realm. Subscription to its rules of conduct is thought to produce judgments that are unparalleled in their rationality and impartiality. On John Rawls' account of liberalism, a political conception of justice is one that is untethered from any deep religious or ethical commitments that may be held by members of a community.[46] Political liberalism, as an ideal, poses itself as a solution to the problem of interminable and insurmountable disagreement among putative equals. Legalism as an ideal is its social form. Yet legalism's supposed merits—the impartiality, disinterestedness, and rationality of the judgments it is meant to produce—are complicated by the premium this framework places on the abstract, isolated individual. In other words, liberal legalism is posited as a solution to a problem that it has itself constructed: that of a deep, irreconcilable difference between isolated individuals who cannot find a common ground other than through their mutual participation in the capacity for reason.[47] Even while this capacity for abstract reasoning, for Rawls and thinkers that have adopted his framework, has its roots in personal attachments and social bonds, in his framework it alone can be considered properly political. In his essay on the sense of justice, for instance, Rawls distinguishes between three kinds of guilt (1) authority guilt, which originates in the family, (2) association guilt, which can be traced to associational life, and (3) principle guilt, which he argues is uniquely political and thus the proper subject of justice.[48] While the last kind of guilt depends, on Rawls' view, on the prior two, it alone is a "complete moral feeling" that is

---

[46] John Rawls [1993], *Political Liberalism,* 2nd Ed. (New York: Columbia University Press, 2005).

[47] For this view see Michael Sandel [1982], *Liberalism and the Limits of Justice,* 2nd Ed. (Cambridge: Cambridge University Press, 1998). For an argument that this characterization of Rawlsian individuals is mistaken, see Susan Moller Okin, "Reason and Feeling in Thinking About Justice." *Ethics* 99, no. 2 (1989): 229-249.

[48] See John Rawls, "The Sense of Justice," *The Philosophical Review* 72, no. 3 (1963): 281-305; John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

"connected with the acceptance of the principles of justice."[49] What distinguishes it from the former kinds of feeling is that it is not dependent on fellow-feeling. This picture of individuals as properly political only from a condition of impartiality subtends Rawls' rationalist account of justice in democratic societies.

While they may be born of exercises in ideal theory, such presumptions about individuals can and do make their way into statutes, precedents, and courtrooms. Commenting on an article in which the former liberal Supreme Court Justice Brennan criticizes this conception of reason, Martha Minow and Elizabeth Spelman ask: "What is this thin view of rationality," that separates it out from empathy, emotion, habits, and the like, "and where did it come from?"[50] In Sharon Krause's estimation, a legalistic distrust of both passions and partiality has become dominant in theories of justice due to political theorists' subscription to an excessively rationalist model of democratic deliberation. For Krause, Rawls' theory of justice falls into this camp. Rationalist views of deliberation, Krause shows, not only misrepresent the world but are incapable of properly understanding the sources of law's authority and legitimacy. When Rawls, for instance, distinguishes between pre-political and properly political kinds of obligation, in other words, his account misses what it is that leads individuals to feel bound by laws and institutions in the first place. Even if political obligation may be treated as different in kind from its parallel relations in the private and associational spheres, it is not typically experienced that way.

Krause's *Civil Passions: Moral Sentiment and Democratic Deliberation* remedies this explanatory gap by re-introducing affect and sentiment into the rationalist picture of deliberation

[49] Rawls, "The Sense of Justice," 291-295.
[50] Martha Minow and Elizabeth V. Spelman, "Passion for Justice," *Cardozo Law Review* 10 (1988): 37-76, 40.

she ascribes to thinkers like Rawls. Her book develops an account of law's authority that rests crucially on "equal voting rights and representative government, as well as informal practices of public contestation and debate."[51] Her account of law thus complicates its understanding as a mechanism for regulating "unruly affect through the application of cool-headed cognition," as the legalistic frame would have it, and as Minow and Spelman persuasively show is untrue of actual practices of judging.[52] As an ideal, then, legalism can be characterized by its assumptions about the nature of individuals and the premium it places on the capacity for reason and impartiality as the locus of thinking about justice in democratic societies.

*Legalism as an Ideology*

Beyond its face as an ideal of reason and impartiality, liberal legalism has been criticized as constituting an ideology. Under this guise, liberal legalism is not only a misguided view about reason, passion, and the ways that human beings relate to one another, but further, has become so sure of itself so as to lead its practitioners to be blind to their own biases. The premium legalism as an ideal places on consensus between abstract individuals is mirrored in social life when it takes on an ideological form, such that the trial and the courtroom come to appear as quintessential models of fair dispute resolution. Shklar's influential study, *Legalism: Law, Morals, and Political Trials,* is the theoretical linchpin for this view of legalism.

Writing in 1964, Shklar described legalism as an ethical attitude that believes, first, that moral conduct is a matter of rule-following, and second, that moral relationships consist of rights

[51] Sharon R. Krause, *Civil Passions: Moral Sentiment and Democratic Deliberation* (Princeton and Oxford: Princeton University Press, 2008), 18.
[52] Krause, *Civil Passions*, 21.

and duties.[53] As an ideology, she explains, legalism expresses itself in politics, institutional structures, and in intellectual attitudes.[54] For Shklar, explains Robin West, legalism "commits lawyers to the formalist claim […] that existing law fully determines all questions posed by conflicting rights and duties," and further that law "has a static, given, autonomous, seamless, and complete nature […] for virtually all lawyers."[55] While Shklar's self-avowedly polemical attack on legalism was meant to speak to the class of professional lawyers, it also aimed beyond the legal profession as such, demonstrating how legalism as an ideology could be found in a wide range of institutions and practices beyond those classified as strictly legal. Where consensus and stability drive the philosophical project of legalism, Shklar shows, agreement and civic peace drive legalism as an ideology—so much so that peace is often pursued at the cost of justice itself.

"Certainty is the very aim of legalism in general," explains Shklar, which is why the courtroom and the trial are "the very epitome" of legalistic morality.[56] As we shall see in Chapter 3, this common view of the trial and its role in delivering justice is central to my analysis of Cixous' critique of legalism. Where legalism as an ideal treats rational consensus as the grounds for legitimate democratic decision-making, the trial's mythology of conversion—that is, of persuading a juror to accept one narrative over another based on fact and statute alone—can be seen as the affective counterpart of rational consensus. That jurors must believe, beyond a reasonable doubt, that the facts of a case have been proven is the grounds upon which legalism as an ideology props

[53] While Shklar does not mention her contemporary Rawls by name, his distinction between kinds of guilt, among which he classifies principle guilt as the only properly moral feeling, surely fits this bill.
[54] Shklar, *Legalism*, 8.
[55] Robin West, "Reconsidering Legalism." *Minnesota Law Review* 88 (2003): 119-158, 120.
[56] Shklar, *Legalism,* 94, 2.

up its defense of law and its criteria of relevance and irrelevance.[57] These alone are thought to settle a matter definitively and objectively, rather than subjectively. Indeed, the distinction between subjective and objective grounds of disagreement is central to legalism in all of its faces—as we shall see, the promise of legalism as a strategy, and of legal rights in particular, is precisely that they can straddle both.

If legalism as an ideal is mistaken in its account of persons and legalism as an ideology is mistaken in its account of morality and of trials—after all, how many trials end without either a formal or informal process of appeal?—its third face is perhaps most important for our purposes. It may seem altogether counter-intuitive, given the above, to describe legalism as a political strategy, given the ideology's own view of politics as inferior to law. Insofar as it can be considered a political strategy, however, legalism as I employ it here refers simply to the practice of orienting political efforts towards utilizing, reforming, and challenging the law in order to advance one's cause—for the purposes of my study, specifically the cause of groups upon whose exclusion law's claim to objectivity and to universality has historically rested.

Feminists in particular have made use of legalism as a political strategy to secure rights women were previously denied, or else to challenge the presumed gender-neutrality of statutes. They have also found that efforts to secure legal rights in turn produce their own political wrongs, a brief account of which I offer below. Tracing how feminists have made us of the law to further their ends of justice, as well as the political shortcomings of these efforts, allows us better to see

[57] Sonali Chakravarti has attempted to save this standard from this legalistic characterization, paying attention to the subjective phenomenology of reasonable doubt. See Sonali Chakaravarti, "No One but You: Jurors and the Internal Standard of Reasonable Doubt," in *Radical Enfranchisement in the Jury Room and Public Life* (Chicago, IL: University of Chicago Press, 2019), 61-80.

how it is that feminist claims to justice that exceed or challenge the legalistic paradigm come to appear as pertaining to vengeance, rather than justice. It further begins to situate law in the social and public world of contestation, speech, and appearance in which the activity of democratic politics takes place.

*Legalism as a Political Strategy: Feminism's Rights and Wrongs*

"There have always been two components to feminism's engagement with law," explains Carol Smart. "One has been to resist legal changes which appear detrimental to women, the other has been to use law to promote women's interests."[58] In this section, I focus on the latter component of feminism's engagement with the law. As to this latter component, which can include feminist jurisprudence projects, among other initiatives, I restrict my analysis to the strategy of codifying and claiming legal rights in particular.[59] Rights, as I mentioned above, bring out the relationship between law and politics most clearly. They are, on the one hand, positively enacted rules in a legal system. On the other, and while "the language of natural rights is out of fashion," explains Duncan Kennedy, "it is still true that Liberal [sic] theory understands *some part* of the system of legal rules as performing the function of protecting […] rights whose "existence" does

[58] Carol Smart, *Feminism and the Power of Law* (London and New York: Routledge, 1989), 163.
[59] An example is the feminist judgments writing project—a first of its kind—called the Women's Court of Canada. Diane Peters, "The Women's Court of Canada." *UniversityAffairs.ca,* September 12, 2011, https://www.universityaffairs.ca/features/feature-article/the-womens-court-of-canada/. See also Rosemary Hunter, Clare McGlynn, and Erika Rackley (Eds.), *Feminist Judgments: From Theory to Practice* (Oxford and Portland, OR: Hart Publishing, 2010). Such Judgment projects seek to supplement existing and precedent-defining judicial reasoning and decisions with feminist perspectives.

not depend on legal enactment."[60] In other words, rights straddle the distinction between subjective and objective grounds of disagreement that subtends legalism as an ideal and as an ideology—a distinction that is crucially important in the dichotomous approach to figuring justice and vengeance in the history of liberal political thought, to which the next section turns. Understanding how it is that feminists have engaged with law by claiming either the existence of heretofore unrecognized rights or the extension of existing rights to women brings into view the limitations of an understanding of justice reduced to law.

I should be clear that, in critically assessing the limitation of a rights-based political strategy for feminism, I do not mean to reformulate existing feminist critiques of rights claims as patriarchal and hierarchal.[61] Instead, much like in the example of the re-authorized VAWA with which this chapter began, I aim to show how the expansion of legal protections for women, and even the formal codification of their rights into law, does little to alter and to challenge the discursive and ideological conditions shaped by legalism in which their claims register as always already vengeful. I restrict my focus here to feminist efforts at enshrining women's right to self-defense in the latter half of the 20th century. My choice of this example, rather than, for instance, of women's fight for reproductive rights, is intentional. While at the time of this writing, the latter right is being gutted, my focus on the right to self-defense is motivated by the fact that, while the

[60] Duncan Kennedy, "The Critique of Rights in Critical Legal Studies," in *Left Legalism/Left Critique,* eds. Wendy Brown and Janet Halley (Durham and London: Duke University Press, 2002), 178-228, 186-187.

[61] See for example Catherine A. Mackinnon, "Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence," *Signs: Journal of Women in Culture and Society* 8, no. 4 (1983): 635-658; Frances Olsen, "Statutory Rape: A Feminist Critique of Rights Analysis." *Texas Law Review* 63, no. 3 (1984): 387-432.

woman who kills her aggressor is rare, her overrepresentation in news coverage is symptomatic of the gendered figuration of vengeance this study seeks to illuminate.[62]

In the contemporary U.S., self-defense laws continue to be racially and sexually biased.[63] Consider two recent cases of individuals that took law into their own hands in Wisconsin. The first case is that of Kyle Rittenhouse, the 17-year-old white man who, in August of 2020, murdered two racial justice protesters during uprisings in Kenosha sparked by the police shooting of Jacob Blake, a 29-year-old Black man. Rittenhouse's defense lawyers argued that the murderous actions he took were in self-defense. Taken on as a *cause célèbre* by gun rights advocates and the conservative white backlash against BLM protests, Rittenhouse quickly fundraised $2 million USD for his pre-trial release.[64] On November 19th, 2021, he was acquitted of all the charges brought against him, including first-degree intentional homicide as well as first-degree reckless endangerment.

The second case, which received renewed attention in light of the Rittenhouse acquittal, is that of Chrystul Kizer: a 20-year-old Black woman in Kenosha who, also at the age of 17, murdered a 34-year-old white man, Randall Phillip Volar III. Volar sex trafficked Kizer and had been

---

[62] "It is curious," observes Susan Jacoby, "that so much of the folklore of sexual revenge focuses on women, when men are so much more likely to be the instigators of sexual violence." (1983, 185) In other words, the adage that 'hell hath no fury…' has little statistical basis. Men continue to exact revenge on women in much larger numbers, and in the significantly fewer cases in the U.S. where women *do* get revenge by killing their husbands, Ann Jones show that they receive strikingly disproportionate media attention. See Susan Jacoby, *Wild Justice the Evolution of Revenge* (New York, NY: Harper Collins, 1983); Ann Jones (1980) *Women Who Kill* 2nd Ed. (New York, NY: The Feminist Press, 2009).

[63] See Caroline Light, *Stand Your Ground: A History of America's Love Affair with Lethal Self-Defense* (Boston, MA: Beacon Press, 2017); Elizabeth M. Shneider, "Equal Rights to Trial for Women: Sex-Bias in the Law of Self-Defense," *Harvard Civil Rights-Civil Liberties Law Review* 15, no. 3 (1980): 623-648.

[64] Jemima McEvoy, "Kyle Rittenhouse Defense Fund Raised Hundreds of Thousands of Dollars Ahead of His November Murder Trial." *Forbes.com* June 21, 2021, https://www.forbes.com/sites/jemimamcevoy/2021/06/21/kyle-rittenhouse-defense-fund-raising-hundreds-of-thousands-of-dollars-ahead-of-his-november-murder-trial/?sh=410661d25f17.

abusing her since she was 16 years old. Kizer was awaiting trial and behind bars from the summer of 2018 to the summer of 2020, when nationwide Black Lives Matter (BLM) protests erupted anew after the police murders of George Floyd and Breonna Taylor. Alongside BLM and advocates from the #MeToo movement, including its founder Tarana Burke and the actress Alyssa Milano, whose viral 2017 tweet amplified #MeToo's reach, renewed public attention was brought to Kizer's case. Supporters signed petitions and donated to the Chicago Community Bond Fund, which managed to raise the $400,000 USD needed for her pre-trial release.[65] A trial has yet to be scheduled for Kizer, and today, her defense attorneys are attempting to pursue her acquittal on affirmative defense laws, rather than the narrower category of self-defense laws. The Wisconsin state affirmative defense statutes are meant to protect those who have committed an offense as a direct result of being trafficked. In a recent groundbreaking decision, the Wisconsin Supreme Court has ruled that the law may yet apply in Kizer's case. Would it be found to, she could be acquitted of all charges.[66] What these cases show is how different criminal defendants have disparate legal grounds of defense available to them when they claim to act in self-defense.

Sex bias in self-defense laws was an important issue for feminist activists of the so-called 'second wave' of feminism in the U.S—so much so that the August 1976 issue of *Ms. Magazine,* co-founded in 1971 by feminist activists Gloria Steinem and Dorothy Pitman Hughes, has a white woman with a beaten and bruised face as its cover image. The issue was devoted to the problem of domestic abuse, which liberal and radical feminists alike took on as a cause to make visible both

[65] Deepa Shivaram, "Rittenhouse's defense renews focus on the case of a 17-year-old who killed her abuser." *NPR.org* November 25, 2021, https://www.npr.org/2021/11/22/1057976496/rittenhouse-verdict-chrystul-kizer-self-defense
[66] Jessica Contrera, "Sex trafficking victim Chrystul Kizer wins key Wisconsin court ruling." *Washington Post* July 6, 2022, https://www.washingtonpost.com/dc-md-va/2022/07/06/kizer-wisconsin-supreme-court-sex-trafficking/.

the ubiquity of violence against women in society as well as the patriarchal biases in law and law enforcement that left 'battered wives' without legal protection or defense. The broader feminist movement had brought the issue to national attention. In the legal arena, feminist lawyers and civil rights attorneys sought to translate the movement's political insights as to the nature of violence against women into law.

In the early 1970s, women lawyers at the Center for Constitutional Rights for instance began to work on women's rights issues. Elizabeth Shneider reflects on her experience as one of the lawyers at the Center at the time.

> We asserted rights not simply to advance legal argument or to win a case, but to express the politics, vision, and demands of a social movement […] There was an important understanding [among female lawyers at the time] that lawmaking could be a form of praxis. It could be constitutive and creative, and it could have political meaning independent of its success or failure in the courts.[67]

On the issue of self-defense in particular, Shneider recounts how she and other female lawyers succeeded in having sentences overturned by challenging the trial court's definitions of what constituted a clear and present danger, the court's definition of the equal force standard, and challenging jury's lack of access to information about the particular problems faced by women who kill men, including historical myths about female madness. Feminist self-defense litigation continues to be an important means by which women challenge the law, even while Shneider recounts how the right to an equal trial argument she and her co-counsel made have been used by courts to recreate "the very sex stereotypes of female incapacity that women's self-defense work was intended to overcome."[68] Rights claims may exist in a dialectical relationship between law

[67] Elizabeth M. Shneider, "The Dialectic of Rights and Politics: Perspectives from the Women's Movement." *New York University Law Review* 61, no. 1 (1986): 589-652, 605-606.
[68] Shneider, "The Dialectic of Rights and Politics," 609.

and politics, as Schneider argues, but they do not prevent rights initially claimed out of situated political analysis to be utilized and re-purposed for anti-feminist ends. Further, many of the biases that Shneider and her colleagues sought to challenge in the 1970s continue to persist in law, leaving women like Chrystul Kizer with an uphill battle to assert their right to self-defense. Judicial interpretations of what constitutes a direct and present danger, as well as what might properly be classified as a logical reaction to such a danger, continue to be stacked against survivors of sexual violence like Kizer.

Rights claims, or legalism as a political strategy, as I have referred to them, are not without their merits. I especially agree with Shneider that "the public nature of rights assertation is especially significant because of the private nature of discrimination against women."[69] Yet it is precisely because of this need for public assertion to feminist politics that women's claims, when they do not proceed from legal argument, risk being always already heard as vengeful. This figuration of woman has long roots in the history of political thought and finds its pinnacle in the arguments of the social contract theorists as to the sovereignty of law, to which I now turn.

**Figures of Vengeance**

Given the ways that the liberal tradition's dichotomous and gendered understanding of the relationship between vengeance and justice has proven an obstacle to feminist struggles for justice, why do feminists continue to be drawn to symbols, figures, and images of vengeance? Though men too can and do figure as agents of vengeance in film and in literature, their ventures beyond the law are typically portrayed as righteous defenses of its normative foundations. Women, by contrast, are often portrayed, from Greek tragedy to our own day, as voicing claims that are not

[69] Shneider, "The Dialectic of Rights and Politics," 626.

incidentally but by definition outside the law: claims that bring its normative order into question. More than merely extra-legal, women's speech has often been figured as pre-political, that is, as non-speech and as noise, as *phonē* rather than *logos.* In the *Eumenides*, the female Furies are described as wailing dogs (*Eum.* 133), while in the *Agamemnon,* Cassandra's first words are not words but inarticulate cries (*Ag.* 1072). By contrast, women's articulate speech acts, such as those made by Clytemnestra, are figured as manly (*Ag.* 935). The same dramatic trilogy is peppered with allusions to historical and mythic acts of vengeance taken by male rulers and warriors alike, but vengeance in the play, as Chapter 2 argues in further detail, comes rhetorically to be associated with the feminine.

While the term 'vengeance', then, may call to mind displays of masculine heroism such as those of Achilles in the *Iliad,* its *figurations* and the rhetorical work it is called upon to do—especially in political theoretical texts, myths, and narratives of foundation—are persistently feminized.[70] The specter of vengeance is central in delimiting the sphere of justice in liberal political thought. Tracking how the threat of vengeance is central to, and (either implicitly or explicitly) feminized in, arguments for juridical sovereignty in liberal political theory helps us to see why feminists have been drawn to practices of its re-signification. In this section, I show, first, how vengeance has been pushed to the margins of what we tend to think of as political, and second,

[70] A comprehensive and comparative study of gender-specific representations of vengeance in literary and cinematic history is, to be sure, outside of the scope of this project. I concede that accusations of vengeance may also meet political claims made by men in the public sphere, with the similar effects of de-legitimizing those claims. I anticipate that future research could investigate in greater detail the relationship between accusations of vengeance and performances of masculinity, drawing upon the present study in order to tease out how performances of masculine gender and men's public speech confront specific challenges.

how its place at the margins has prompted feminists to find, in its unseemliness, a symbolic otherwise to the legalistic framework.

Modern political theorists, notably those associated with the social contract tradition, imagined the theoretical grounding of states on the basis of that which, they argued, it was called upon to regulate and to contain: the threat of lawlessness, which is to say, a condition called the 'state of nature' where agreed upon standards for settling disputes between private individuals did not exist. For Thomas Hobbes, political society as such would be impossible without the institution of an absolute sovereign to tie the hands of "masterlesse men" by "subjection to Lawes" from "rapine and revenge."[71] Without "the terrour of some power" to cause men to obey the Laws of Nature, among which Hobbes includes justice, men's "naturall Passions" would carry them to "Partiality, Pride, Revenge, and the like."[72] For Hobbes, pride is that which leads men to anger, "the excesse whereof" he remarks is "the Madnesse called Rage, and Fury."[73] In Hobbes' psychology of man, the desire for revenge is unquenchable. It leads men into flights of fancy. On the level of the commonwealth, the threat of individuals exacting revenge on one another is woven into the state of nature, which must be overcome in his account for civilized life to exist. The threat of chaos represented by the rule of revenge has frequently been marshalled by political theorists in defense of the necessity of a sovereign authority with the power to coerce. While vengeance has been recognized as among the tendencies of individuals that must be warded off for political order to be maintained, its referent is slippery, and the figurative work it is called upon to do in

[71] Thomas Hobbes, *Leviathan: A Critical Edition,* Eds. Karl Schuumann and G.A.J. Rogers (London: Thoemmes Continuum, 2005), 2-146.
[72] Hobbes, *Leviathan,* 2-133.
[73] Hobbes, *Leviathan,* 2-61.

legitimating the state has yet to be fleshed out in its relationship to the gendered background against the boundaries of the political take shape.

Feminist political theorists have done important work not only to examine woman as the "perennial outsider" to the social order in canonical texts, to speak with Zerilli, but further, to show how woman in the history of political thought "is neither outside the margins nor at the margins of the political," but rather how it is that "she constitutes and unsettles those margins."[74] In Hobbes' work, the figure of vengeance performs a similar role to that of woman. Important in Zerilli's study of woman as a "frontier figure" in the history of political thought is that woman is "not a being but a signification—wholly arbitrary and fundamentally unstable because dependent for its meaning on the relational structure of language."[75] Vengeance in Hobbes' *Leviathan* is itself a signification—its referent is at once men's "natural passions," the action of punishment that results from men's pride, lust and greed, men's experiences of madness and drunkenness, and lastly, the broader social condition of a war of all against all that serves to legitimate the power of the absolute sovereign. The gender of vengeance in Hobbes may seem to be masculine, given its association with Prideful behavior, but his own typology of affects shows that – despite its polysemy as a signifier – it tracks a disposition Hobbes associates with the pre-political. Vengeance, in other words, functions to legitimate the sovereign by way of its explicit association with masculine, but its rhetorical strength in the text is produced by way of its association with an uncontainable disorder associated with the feminine—that which is pre-political and irremediably partial.

Even in John Locke's more peaceful state of nature, vengeance plays a central role in legitimating the social contract. "Men being partial to themselves," Locke writes, "passion and

[74] Zerilli, *Signifying Woman*, 2.
[75] Zerilli, *Signifying Woman,* 2.

revenge is very apt to carry them too far, and with too much heat, in their own cases," thereby necessitating the institution of a known and indifferent judge.[76] The threat of vengeance is described as presenting a problem insofar as individuals may disproportionately inflict punishment on one another. The social contract comes in to regulate this threat of disorder, which is to say, to ensure that justice and not vengeance will govern relations between individuals. In both Hobbes and Locke, then, vengeance is called upon to exemplify the dual threats of partiality and subjectivity, which are figured as inimical to democratic judgment and as pre-political conditions that law alone can tamp out.

The allergy to and fear of partiality—manifested in a gendered conception of vengeance as the outside of politics—in liberal political thought has come to be something of a commonsense, making its way into contemporary popular and political discourse alike. In liberal democratic societies, women continue to be figured as a potentially de-stabilizing and uncontrollable force. Indeed, that vengeance is conceived of as uncivil and improper and that women have long been oppressed by social norms of civility and propriety has led them to find joy in figures of the unseemly—among them, in the figure of the vengeful woman. The unseemliness of feminine vengeance in the liberal democratic imagination, viewed in light of popular celebrations of men as avengers in popular film, serves as a reminder of the contestability of meaning that this study takes as central to politics and political action. In the last section of this chapter, I touch briefly on the understanding of politics as a claims-making activity upon which this dissertation's analysis of vengeance rests.

[76] John Locke [1690], *Second Treatise of Government,* Ed. C.B. Macpherson (Indianapolis, IN: Hackett Publishing, 1980), 66.

**Vengeance and the Politics of Claim-Making**

Looking to the Latin etymology of the word vengeance helps us to make sense of the difference between rights claims and the activity of claiming in general.[77] From the Latin *vindicare,* vengeance refers more broadly to the "act of claiming or avenging." To vindicate is to "lay claim to, assert; claim as one's own; protect, defend; avenge." It is related to the Latin *vim dicare,* which means to "show authority" with "force" and "to proclaim."[78] Understood in this way, vengeance has less to do with either the wish to inflict harm or the act of inflicting it and far more to do with the activity of meaning-making. The term's Latin etymology, in other words, gestures at a sense of vengeance not captured in either the psychologistic or legalistic frameworks through which it tends to be analyzed and understood. The Latin root opens us instead to the world of democratic politics, in which individuals engage perpetually in contests over meaning, over legitimacy, and over authority. Such contests, to be sure, have most often been lost by women—women's claims to justice are frequently challenged as illegitimate even when they do employ legal argument. Yet the term's Latin root reminds of us of the contingency and potentiality that lies in all acts of political claiming, and which this dissertation argues is an indispensable facet of feminism, conceived of as a political struggle for social transformation.

My approach to contestation is inspired by the agonistic tradition in political theory, which places emphasis on the centrality of conflict and antagonism to democratic politics. This approach can be traced to a variety of sources, from Nietzsche to Hannah Arendt, Bonnie Honig to Ernesto Laclau and Chantal Mouffe, to Jacques Rancière. Important in this approach for my purposes is

[77] I thank Jennifer Culbert for her suggestion that I examine the term's etymological roots.
[78] "Vengeance," *Online Etymology Dictionary,* https://www.etymonline.com/word/vengeance#etymonline_v_4698.

not merely its rejection of the terms upon which rationalist theories of democracy operate—think of legalism's substitution of the reality of conflict for the ideal of consensus—but further the emphasis they place on the centrality of approaching politics as primarily a claims-making activity. This aspect of politics is most clearly articulated in Rancière's *Dis-agreement*, to which I turn.

Rancière's *Dis-agreement* can be seen as an effort to lend specificity to the term 'politics' as well as to restrict its definition to particular kinds of actions and practices—notably, practices and actions that take on a public character. In describing the activity of politics, Rancière gives as an example the very fact of Jeanne Deroin's 1849 candidacy for legislative election in France. Deroin is, of course, lawfully barred from running. What makes her act a political one, for Rancière, is not merely that it denounces "an inconsistency or a lie regarding the universal" values espoused by the French republic, but further, that her "unseemly appearance […] on the electoral stage [itself] transforms into a mode of exposure of a wrong."[79] By bringing her singularity into view, Deroin in effect challenges the very modes of partition that subtend the Republican ideology of women that legitimate her exclusion from the sphere of politics. In Joan Scott's formulation of the scene, Deroin and feminists like her "dramatized their conviction that their place was in the public sphere by entering it."[80] What the example of Deroin illuminates for both Scott and Rancière is how politics consists of more than the activity of making claims and counter-claims under established and pre-given rules—what James Tully refers to as a juridical form of thought—but also in the "relationships between worlds" that are established by way of the risky and

[79] Rancière, *Dis-agreement,* 41-42.
[80] Joan Wallach Scott, *Only Paradoxes to Offer: French Feminists and the Rights of Man* (Cambridge, MA: Harvard University Press, 1996), 81.

unpredictable actions people undertake in the presence of others.[81] Deroin, explains Scott, deemed the law that prevented her from running for office unjust and therefore violable, but was nevertheless "trying to break the law in order to expose its contradictions and ultimately change it."[82] Deroin's conviction led her to enact a dramatic rupture with the given—to make a performative claim.

The understanding of politics as a contingent and performative activity of claims-making outlined above ties the chapters that follow together. From the claims to justice made by the Furies and perversely denied by Athena in the Areopagite court, to the claims to justice unheard in French society and re-imagined by Cixous in the theatre, and lastly to the contemporary claims made by survivors of sexual violence by legal and extra-legislative means, this dissertation attends to the risks that inhere in practices of women's claims-making activity.

**Feminism, Law, and Justice: Chapter Overview**

Understanding politics in this way also helps to shed light on contemporary debates within feminism as to the value of engaging with law at all in the democratic struggle for justice. Abolitionist and anti-carceral feminists share this dissertation's driving insight, namely, that law as it is currently practiced does not deliver justice for historically excluded groups and, in fact, more often perpetuates and exacerbates existing injustices. Despite these shared premises, we arrive at different conclusions given our understanding of politics, which, when it places a premium on the activity of public speech and appearance, leads us not to discount the potentially

[81] James Tully, *Public Philosophy in a New Key, Volume I: Democracy and Civic Freedom* (Cambridge: Cambridge University Press, 2008), 56.
[82] Scott, *Only Paradoxes,* 84.

disruptive potential of feminist engagements with the law. I delve more deeply into this difference in outlook on politics in Chapter 4, but ought to note that, from the perspective on vengeance as the constitutive outside of law outlined here, minoritized actors cannot afford to dis-engage the law. Recognition of the gap that exists between law and justice is surely an important insight—one that must be kept front of mind, given the hold legalism has on the imagination—yet, what renders democratic activity live, to paraphrase Mouffe, is precisely this gap. To recognize this gap only to turn away from it, explains Mouffe, is to forget how "the radical undecidability of the tension of its constitution" is at the same time "a function of the symbol of something exceeding it," in other words, of politics as a creative and unpredictable activity in its own right.[83]

To advance the feminist political theory of vengeance I have begun to spell out here, this dissertation proceeds by way of three substantive chapters. Each chapter focuses on an example of women's public speech and action as it develops within, outside of, and the bounds of law, respectively. Throughout, I stress how differential axes of identity and contingent historical circumstances enable feminists to ascribe novel meanings to vengeance and justice alike. By focusing on the contingencies of public speech and action rather than categories of identity, I make a methodological claim in feminist theory and practice itself, which does well to attend to the world in which identities, much like claims to justice and acts of vengeance, take shape and are interpreted.

In Chapter 2*,* "Oaths that (un)Bind: Recovering the Furies Political Voice in Aeschylus' *Oresteia,*" I offer a feminist interpretation of the ancient Greek tragedy through which the dualistic relationship between vengeance and justice has been sedimented in liberal democratic theory. My

[83] Mouffe, *The Democratic Paradox,* 12.

return to the Ancient world is motivated by a wish to uncover the deep roots of the relationship between gender and vengeance as it is typically conceived. My reading of the tragedy focuses on the goddesses of vengeance, the Erinyes or Furies, that are figured in this text that otherwise depicts the foundation and establishment of the rule of law and the trial by jury by the goddess Athena. Deepening feminist interpretations of the tragedy that track the mutual constitution of vengeance and the feminine sex, I track the constitution of gendered meaning in this tragedy in its final trial and pre-trial scenes. I show how it is not merely *what* the Furies seek to convey at court (that the murder of a woman and a mother is unjust) that contributes to the feminization of vengeance, but further, *how* they aim to represent these claims which does so. Zeroing in on their role as guardians of oaths, I re-animate their roles as speakers of wrongs done to women and kin unbound from the conventions that govern the court of law. This excavation of the forms of speech adopted by the Furies at court and disallowed by Athena shows how a narrowly legalistic justice cannot adequately confront problems of gendered harm, which require political solutions that cannot shy away from the risk that attends public contests over meaning.

Chapter 3, "Minoritarian Vengeance: Refiguring Justice in Hélène Cixous' *La Ville Parjure*," analyzes the Furies' imaginative mobilization at the turn of the 20th century by the French-Algerian feminist, writer, literary theorist, and playwright Cixous. Building on the conceptual foundations established in Chapter 2, I offer a contextual reading of Cixous' 1993 play (The Perjured City or the Awakening of the Furies). In this play, Cixous awakens the Furies to confront an injustice of grand magnitude that was being played out in the French High Court in her time, which has since come to be known as the contaminated blood affair. The French government's scandalous negligence in knowingly allowing HIV-contaminated blood products to circulate amongst the country's population of hemophiliacs could not be resolved in the courts,

Cixous' play shows. I read her play, which stages an alternative trial of government officials presided over by the Furies, as a feminist critique of what legal adjudication can and cannot accomplish. My reading, which emphasizes her intellectual commitments to both psychoanalysis and decolonization, uncovers how the public wording of vengeance can give voice to claims on the part of the doubly and triply marginalized by sexuality, class, and nation.

In Chapter 4, "Fury in the Public Sphere: #MeToo, Abolition Feminism, and the Agonistic Politics of Public Speech," I turn my attention to an instance of women's public testimonies in the #MeToo movement against sexual violence. Through an analysis of one of #MeToo's most notorious legal cases, that of serial child abuser Larry Nassar, I show how women's public speech risks appearing vengeful even when it makes use of juridical instruments that purport to allow for its inclusion into the courtroom. I focus on how Judge Rosemary Aquilina allowed upwards of 100 women to speak directly to their abuser in court during his sentencing hearing, attending to how their inclusion in the legal process was interpreted by commentators on the case. I interrogate how women's use of the Victim Impact Statement, in the context of a public sphere whose boundaries were newly challenged by #MeToo, contributed to the vilification of women's speech acts. Critically reflecting on the generally problematic use of such statements in court cases adjudicating sexual violence, I nevertheless interpret women's voices in this case as instantiating a kind of public justice for women. Women can and do, this chapter argues, utilize the law agonistically to transform the otherwise narrow terrain of their speech's reception in the courts.

Combining close readings of ancient Greek tragedy with historical and contemporary examples from feminist theory and politics, this dissertation opens up the problem of vengeance from the perspective of those whose claims are too often accused of harboring it. My project's scholarly contributions lie at the intersection of democratic theory, critical legal theory, feminist

theory, and aesthetics. Understanding how it is that women's claims to justice come to be feminized such that they no longer appear to be claims to justice at all, but rather cries for revenge, allows scholars of political life to better identify the many subtle but nonetheless decisive ways liberal democratic societies fail to live up to their stated commitments to equality.

To begin to appreciate the gap between law and justice, this dissertation turns first to the foundational Greek myth through which they come to appear as one—a conceptual equation whose condition of possibility, I argue, is the figure of the blood-thirsty Furies. These goddesses' challenge to the stability of Athenian democracy is rendered vividly in Aeschylus' descriptions of them as hunters, dancers, and hounds—women who are not women, but who instead appear as embodiments of contagion, disease, and pollution. In this figuration, the Athenian audience's fears of the Furies themselves come to take on the role of the objective grounds upon which the legitimacy of positive law and its means of dispute resolution rests.

The importance of the jury-system and of law courts to the classical era of Athenian democracy in the fifth century has been well-established, with these institutions standing on par with both the assembly and the theater as paradigmatic spaces in which citizens partook of the collective project of verbal contestation and debate: public activities that together comprise the 20th century ideal of democratic citizenship in classical Athens.[84] If Athenian democracy and its practices of litigation may seem far removed from our own, their mythical recounting in Aeschylus' narrative continues to be read by students of law in university classrooms today, indicating that interpretations of this tragedy continue to shape contemporary understanding of

[84] Simon Goldhill, "The Audience of Athenian Tragedy," *The Cambridge Companion to Greek Tragedy.* ed. P.E. Easterling (Cambridge, UK: Cambridge University Press, 2006), 54-68.

gender, justice, and democracy. Yet what are contemporary feminists, who may be critical of law's ability to deliver justice for women, to make of Athena's settlement with the Furies?

## Chapter 2. Oaths that (un)Bind: Recovering the Furies' Political Voice in Aeschylus' *Oresteia*

> *Luō:* I unbind. There is no bond that cannot be subjected to this process, beginning with the social bond. […] *Dialuō:* I untie; *dialuō:* I reconcile. I separate/weave again what has become undone.[1]

> The witness marks or declares that something is or was present to him that is not so to the addressees to whom he is joined by a contract, an oath, a promise, by a sworn word [*foi jurée*], whose performativity is constitutive of the testimony and makes it a pledge [*gage*], an engagement. Perjury even presupposes the sworn word, which it betrays. Perjury does indeed threaten all bearing witness, but this threat is irreducible in the scene of the sworn word and attestation.[2]

Aeschylus' *Oresteia* (458 B.C.) trilogy[3] has been interpreted as a proto-modernist narrative depicting law's evolution from the private and violent rule of vengeance to its overcoming by the public, impartial, and procedural rule of law.[4] The trilogy's first play *Agamemnon* depicts King Agamemnon's triumphant return to Argos on the heels of his army's victory at Troy – a military pursuit whose success depends crucially upon the King's slaughter of his daughter Iphigenia at Aulis as part of a sacrifice demanded of him by the goddess Artemis. During the King's absence, Queen Clytemnestra has held the Argive throne with her lover Aegisthus. The *Agamemnon* deploys imagery of tapestries and nets in its depiction of Clytemenestra's artful regicide upon the

---

[1] Nicole Loraux [1997], *The Divided City: On Memory and Forgetting in Ancient Athens,* Trans. Corinne Pache and Jeff Fort (New York: Zone Books, 2006), 95.
[2] Jacques Derrida, "Poetics and Politics of Witnessing," Trans. Outi Pasanen, in Outi Pasanen and Thomas Dutoit, Eds., *Sovereignties in Question: The Poetics of Paul Celan* (New York: Fordham University Press, 2007), 65-96, 78.
[3] Aeschylus, *Oresteia,* trans. Robert Fagles (New York: Penguin Books, 1977). Hereafter cited by abridged play title (*Ag. for Agamemnon, Lib. for Libation Bearers, and Eum. for Eumenides*) and line numbers.
[4] Nussbaum, *Anger and Forgiveness*; J. Peter Euben, *The Tragedy of Political Theory*: *The Road Not Taken* (Princeton: Princeton University Press, 1990).

King's return – an act she has taken in retribution for his murder of their daughter. At the play's close, the Chorus laments the absence of impartial standards by which the individuals in this ruling family's actions can be judged: "Each charge meets counter-charge/none can judge between them. Justice" (*Ag.* 1588-1589). In the trilogy's second play, *The Libation Bearers,* Clytemnestra's son Orestes returns from exile to avenge the death of his father. With the help of his friend Pylades and his sister Electra, Orestes slaughters Clytemnestra and her lover. He symbolically wraps their corpses in the same tapestries Clytemnestra had laid down for his father to walk upon towards his own death at her hands: blood for blood, he has seen to it that his father's death has been avenged.

In Aeschylus' version[5] of these myths, the cyclical lawlessness, kin-murder, and tyranny that the Atreid house represents are depicted as having been transcended by Orestes' matricide – an act that is judged to be a justifiable homicide in the trilogy's final play, *Eumenides*. According to the received readings, democratic justice is born when the goddess Athena founds a homicide court in which both Orestes and the Furies, goddesses of vengeance charged with representing the slain Clytemnestra at court, present their cases to be judged. She appoints ten Athenian men to judge the murders; these jurors are sworn to "decide the issue fairly, truly," their "spirits bent on justice" rather than on retribution or revenge (*Eum.* 497-505). The sworn word—the oath—and its power to bind citizens to one another, to a given course of action, or to an institution is a central

[5] I thank Demetra Kasimis for alerting me to the fact that it is of significance that, in political theory, Aeschylus' version of these myths has received great attention, while Euripides recounting of them in his *Orestes* (408 B.C.) has not. In Euripides' version of Orestes' trial, the matricidal son is not acquitted, and his case is presented to a town assembly, rather than an austere homicide court. It is beyond the scope of this chapter to interrogate why it is that democratic theorists are so invested in one version of these myths, rather the other, although a study of this interpretive tendency opens up a fruitful line for future scholarly inquiry. What picture of democracy and of justice would emerge from political theoretical attention to Euripides' version of the Orestes myth, rather than Aeschylus'?

feature of tragedy's account of justice, and of vengeance. That the sworn word and its effects are a prominent theme in the tragedy is in line with the oath's importance as a cultural phenomenon in ancient Greek society. At the most general level, to swear an oath in Greek society meant "in effect to invoke powers greater than oneself to uphold the truth of a declaration, by putting a curse upon oneself if it [was] false."[6] The key and defining feature of the oath is that it is an assertation "whose credibility is fortified by a conditional self-curse."[7] Could Athenians' beliefs in curses and in the polluting taint of guilt itself ensure the truth of a speaker's promises and declarations? In Aeschylus' time, beliefs in curses and in divine vengeance were waning. Enter the Erinyes, or Furies—sometimes described simply as curses personified, at others as enforcers of curses.[8]

These ancient goddesses' power was awful—in Homeric myth, explains N.J. Sewell-Rutter, they could "silence a talking horse" and even "correct the path of the sun," as well as perform their original roles of punishing two kinds of crime: perjury and the murder of kin.[9] What unites these two crimes is the ever-present possibility of deceit—of the false declaration, on the one hand, and of the fictive quality of the bond between blood relatives, on the other. Kinship, after all, is "a classificatory technology" which, like other such technologies, can both describe existing blood relations but can also be mobilized to "signify not only specific kinds of connection

[6] Richard Janko, cited in Alan H. Sommerstein and Isabelle C. Torrance, *Oaths and Swearing in Ancient Greece* (Berlin: Walter de Gruyter, 2014), 1.
[7] Sommerstein and Torrance, *Oaths and Swearing,* 2.
[8] Sommerstein and Torrance, *Oaths and Swearing,* 8-10; N.J. Sewell-Rutter, *Guilt by Descent: Moral Inheritance and Decision Making in Greek Tragedy* (Oxford: Oxford University Press, 2007), 72-80.
[9] Sewell-Rutter, *Guilt by Descent,* 79; Karl August Böttiger, *Les Furies: d'après les poètes et les artistes anciens,* Trans. T.F. Winckler (Paris: Chez August Delalin, 1802), 90.

and inclusion but also specific kinds of disconnection and exclusion."[10] Kinship, explains Judith Butler, "is not an order that quells a disturbance or disruption," but rather "a disturbance or breach that takes place prior to any question of rule or law."[11] Put simply, both kinship and perjury presume a relationship to a natural substratum—blood in the former and truth in the latter—that the discourses surrounding them do not merely reveal but are called upon to constitute and create.[12] In the Athenian imagination, the dreadful Erinyes act as a supplement to beliefs about kinship, oaths, and curses—they rise to regulate and contain the ever-present threat of deceit and betrayal latent in these systems of ordering. "If words cannot always be trusted," explains Sewell-Rutter, "words made flesh are infinitely more reliable."[13] The Furies are that flesh—they "live in the tension that makes oaths needed and monitor the oath when made."[14] They contain instability. Yet by the *Eumenides'* end, they themselves become contained by Athena, pressing us to ask: has the tension that makes oaths needed in Greek society in the first place been quelled by her institution of the court of law? Does the law court itself now take on the binding power of oaths that once was the province of the Erinyes? More directly still, is speech uttered in the juridical context evacuated of its latent potential for betrayal?

---

[10] Sarah Franklin and Susan Mackinnon, "Introduction," in *Relative Values: Reconfiguring Kinship Studies,* Eds. Sarah Franklin and Susan Mackinnon (Durham, NC: Duke UP, 2011), 1-28, 15.

[11] Judith Butler et al., "Disruptive Kinship," Filmed March 24, 2014 at New York University, Video. https://syntheticzero.net/2014/03/24/disruptive-kinship-judith-butler-helene-cixous-avital-ronell/.

[12] On the discursive construction of kinship relations in ancient Athens, see Demetra Kasimis, *The Perpetual Immigrant and the Limits of Athenian Democracy* (Cambridge: Cambridge University Press, 2018); Jacqueline Stevens, *Reproducing the State* (Princeton: Princeton University Press, 1999).

[13] Sewell-Rutter, *Guilt by Descent,* 95.

[14] Ruth Padel, *In and Out of Mind: Greek Images of the Tragic Self* (Princeton: Princeton UP, 1992), 165.

Binding and unbinding, tying, ties, and untying, lies and deceit, webs, nets, and boundaries are all central metaphors in Aeschylus' *Oresteia.* At the moment in the *Eumenides* when the Furies first appear to the audience on stage, they encircle the matricidal Orestes, linking arms and dancing hand-to-hand, beckoning him to "hear [their] spell, the chains of song [they] sing to bind [him] tight" (*Eum.* 305-6). They rise to meet the guilty one, themselves "witness bound" (*Eum.* 319) to avenge the blood of murdered kin. Over Orestes' head they chant a "frenzy striking frenzy" (*Eum.* 330), the "Hymn of the Furies,/Binding minds, without a lyre,/Sucking men dry" (*Eum.* 328-333).[15] Yet for all of these goddesses' primordial power to "bind the world" (*Eum.* 336), by the *Eumenides* end, Orestes is no longer bound by their song. He has been unbound from its performative force by way of his acquittal by the Arepoagite jurors, whose tied vote has been broken by the goddess Athena in his favor.[16]

Upon his acquittal, he binds himself anew, but this time, in his capacity as the ruler of Argos. Orestes' oath establishes the military alliance between Athens and Argos, breakers of which he swears to "baffle […] with disasters" and "curse their marches" (*Eum.* 775-785). In swearing this oath in the presence of Athena, Orestes establishes a political tie. His acquittal, the condition of possibility for this political tie, depends crucially upon his denial of the significance or binding power of kinship ties and of the maternal bond in particular.[17] Upon his exit from the stage, Athena's exchange with the Furies sets about establishing further boundaries, restricting the

---

[15] This translation of passage 328-333 from Yopie Prins, "The Power of a Speech Act: Aeschylus' Furies and Their Binding Song," *Arethusa* 24, no. 2 (1991): 177-195, 185.
[16] There is a debate in the scholarship on the *Oresteia* as to whether Athena breaks the tie or not, but a definitive position on this interpretive point is tangential to my analysis.
[17] Explains Laura McClure, the *Oresteia* "problematizes maternal blood as the determining factor in kinship, and in fact it privileges the father and the city over the maternal bond." Laura McClure, "Staging Mothers in Sophocles' *Electra* and *Oedipus the King.*" in *A Companion to Sophocles.* ed. Kirk Ormand. (Oxford: Wiley-Blackwell, 2012), 367-380, 368.

goddesses' sphere of influence to the household and firmly domesticating their ancient powers under the ground of Areopagus homicide court. Metaphors of nets, tangles, weaving, and of binding and unbinding permeate this mythopoetic narrative of the foundation of the law-court and the trial by jury, and with them, of the very meaning of the political community.

"*Horkos* [oath/curse], its cognates and related terms" are "the predominant theme throughout the trilogy," explains Judith Fletcher, "which seems only natural given that the oath is such an essential feature of Greek justice."[18] Yet the instability of the sworn word, alluded to by both Loraux and Derrida above, has yet to be sufficiently attended to in political theoretical readings of the *Oresteia.*[19] These tend to emphasize the tragedy's account of justice as reconciliation, rather than linger upon the possibility of its undoing (*dialuō*) that the Furies' unsettling presence under the seat of law presses us to recall. After all, upon Orestes' acquittal, the Furies threaten repeatedly to make the city barren by "loos[ing] [their] poison over the soil," the only remedy, they exclaim, that would "match" the "grief [that] comes pouring out" of their hearts (*Eum.* 795-796). Faced with this threat of a grandiose curse upon all of Athens – a threat uttered by terrifying "snake-haired, blood-lapping fiends,"[20] no less, Athena may well have chosen to banish them. Her decision to incorporate the Furies into Athens as resident foreigners (*metoika*),[21]

---

[18] Judith Fletcher, *Performing Oaths in Classical Greek Drama* (Cambridge: Cambridge UP, 2011), 36.

[19] For an analysis of the oath as it appears in Derrida's later works, see Charles Barbour, "The Hazard of Truth: Perjury and Oath in Derrida's Later Work," *Law, Culture and the Humanities* 13.2 (2017): 211-225; Charles Barbour, *Derrida's Secret: Perjury, Testimony, Oath* (Edinburgh: Edinburgh University Press, 2017).

[20] This wording from Sarah Iles Johnston, *Restless Dead: Encounters Between the Living and the Dead in Ancient Greece* (Berkeley, CA: University of California Press, 1999), 124.

[21] For an insightful discussion of the Furies' metic status and new robes, see Patchen Markell, *Bound by Recognition* (Princeton and Oxford: Princeton University Press, 2003), 190-193; on the status of metics in ancient Athens generally see Deborah Kamen, *Status in Classical Athens* (Princeton: Princeton University Press, 2013); Kasimis 2019.

rather than to exile or banish them from the city-state altogether, has been a key focus of political theorists' interpretations of the tragedy's account of what justice is and is not.

Peter Euben's reading of the tragedy, for instance, suggests that the lessons Athena's decision, and the tragedy as a whole, teaches us as to justice have essentially to do with reconciliation, with striking a mean between men and women, *oikos* (family/home) and *polis* (city-state), and between past (the Erinyes) and present (Athena and Apollo). Justice in the *Eumenides,* he writes, is characterized by the reconciliation of diversities, the active complementarity of reciprocity, by recognition, and by democratic judgment.[2223] Athena's pacification of the blood-lapping Furies at the trilogy's end and her establishment of a homicide court atop their new subterranean home is read as a crucial moment in establishing the proper boundaries "between spheres of activity, principles, and social groups," to speak with Euben, that in turn guarantees civic peace and the possibility of a truly democratic form of justice under law.[24] Yet the Furies' presence at the foot of the Areopagus, Loraux reminds us, "symbolizes the domesticated yet always threatening presence of terror and wrath in the city. Terror and wrath: the terror attached to the oath—a terror that guards against perjury—and the wrath that […] is one name for civil

[22] Euben, *The Tragedy of Political Theory*, 81-83.
[23] Jill Frank, too, holds up Athena's back-and-forth with the Furies as evincing the kind of *logos* proper to politics, where politics rises above "the play of interests" to orient itself "to the well-being of the city *as a whole.*" She identifies a similar potential in the scene to Euben: the potential of democratic justice to recognize and to accommodate plurality, although for Frank, the means of achieving it do not require that Athena stands in a hierarchal relationship towards the Furies, because both their speech and Athena's, writes Frank, "is granted authority by way of the simultaneous active and passive speaking and listening characteristic of middle-voice persuasion." See Jill Frank, "On *logos* and politics in Aristotle," *Aristotle's Politics: A Critical Guide,* Eds. Thornton Lockwood and Thanassis Samaras, (Cambridge: Cambridge UP 2015), 9-26, 21, 23.
[24] Euben, *The Tragedy of Political Theory*, 39.

war."[25] Does Athena's domestication of the Furies represent a political reconciliation, Loraux presses us to ask, or a forgetting of the political itself?

Indeed, this classical Greek text has long served as a cautionary tale as to the excess and disorder—Loraux would say the threat of discord and civil war—that threatens societies in the absence of formal legal institutions. Political and legal theorists alike have turned to the *Oresteia* to mine it for insights to guide contemporary democratic norms, on the one hand, as well as to illuminate the historical relationship between law and violence and to emphasize law's constitutive exclusion of subordinated groups from the sphere of justice, on the other.[26] Feminist readers of the tragedy specifically focus on its depiction of women's patriarchal domination by the institution of Athena's new legal order. For feminists, rather than staging justice, Orestes' acquittal by Athena and the Athenian jurors simply marks the codification of patriarchal injustice and domination into law. The arguments made in defense of Orestes' matricide by Apollo (*Eum.* 211-222; 665-683) and the reasoning Athena puts forward for ruling in his favor (*Eum.* 750-756) rest upon, and indeed can be said to symbolically constitute, patriarchal ideologies of biology, reproduction, and marriage for their coherence and legitimation. These are the last arguments presented before the

[25] Loraux, *The Divided City,* 41.

[26] See Wairimu Njoya, "The Progress of Law: Aeschylus's *Oresteia* in Feminist in Critical Theory," *Political Theory* 48, no. 2 (April 2020): 139-68; Stefan Dolgert, "Sacrificing Justice: Suffering Animals, the *Oresteia,* and the Masks of Consent," *Political Theory* 40, no. 3 (2012): 263-289; Kate Millett, *Sexual Politics* [1970], (Chicago: University of Illinois Press, 2000); Carol Gilligan and David A.J. Richards *Darkness Now Visible: Patriarchy's Resurgence and Feminist Resistance* (Cambridge: Cambridge UP, 2018); Froma I. Zeitlin, "The Dynamics of Misogyny," *Arethusa* 11, no. 1-2 (1978): 149-184; and Arlene Saxonhouse, "Aeschylus' *Oresteia*: Misogyny, Philogyny, and Justice," *Women and Politics* 4, (1984): 11-32; Markell 2003; Judith Butler, "Fury and Justice in the Humanities," Sigmund H. Danzinger, Jr. Lecture in Literature, University of Chicago, November 11, 2021, https://www.youtube.com/watch?v=YPMIrMkggmA&ab_channel=UChicagoDivisionoftheHumanities.

jurors cast their lots, and in them, writes Kate Millett, we "see patriarchy confront matriarchy, confound it through the knowledge of paternity, and come off triumphant."[27]

Unlike Greek texts such as Sophocles' *Antigone* and Euripides' *Bacchae* and *Medea,* then, which have inspired political thinkers to theorize feminist and minoritarian forms of speech, claims-making, and agency anew, the *Eumenides* has not typically been read as generative of constructive insights for contemporary feminist politics.[28] Building upon existing feminist readings of the *Oresteia*, this chapter seeks to deepen our understanding of the entanglement of gender and justice by focusing on the rhetorical mechanisms in the tragedy that reduce the Furies' claims to justice for Clytemnestra to private cries for revenge. Drawing upon emerging scholarship in classics which foregrounds the significance of oaths to the Greek conception of justice and of democracy,[29] my reading of the *Oresteia* and the Furies contributes to a larger debate in democratic theory regarding the role of voice and rhetoric in theories of justice.[30] A feminist reading of the tragedy that centers the Furies' relationship to the practice of swearing oaths, I argue, illuminates

[27] Millett, *Sexual Politics,* 115.
[28] By 'constructive' I mean insights that would gesture at ways of undermining patriarchal norms, rather than simply tracking their ideological justifications. Some examples of feminist readings of Greek texts constructively include Judith Butler, *Antigone's Claim: Kinship Between Life and Death* (New York: Columbia University Press, 2000); Bonnie Honig, "Antigone's Two Laws: Greek Tragedy and the Politics of Humanism," *New Literary History* 41, no. 1 (2010): 1-33; Honig, *A Feminist Theory of Refusal* (Cambridge, MA: Harvard University Press, 2021); Demetra Kasimis, "Medea the Refugee," *The Review of Politics* 82, no. 3 (2020): 393-415; Andrés Fabián Henao Castro, "Antigone claimed: 'I am a Stranger!' Political Theory and the Figure of the Stranger," *Hypatia: A Journal of Feminist Philosophy* 28, no. 2 (2013): 307-322.
[29] See Alan H. Sommerstein and Andrew J. Bayliss, *Oath and State in Ancient Greece,* (Berlin: De Gruyter, 2012); Sommerstein and Torrance, *Oaths and Swearing*; Fletcher, *Performing Oaths*; Judith Fletcher, "Polyphony to Silence: The Jurors of the *Oresteia*," *College Literature* 41, no. 2 (2014): 56-75.
[30] Stephen K. White, "Agonism, Democracy, and the Moral Equality of Voice," *Political Theory* 50.1 (2022): 59-85.

the gendered ways in which ways in which practices of political claims-making that exceed legalistic formulae fail to be heard as political.

Following Lida Maxwell, I read the tragedy as an instance of democratic failure, that is, "a moment when both law and the people fail to assure justice," rather than merely another example of patriarchal domination.[31] In contrast to fatalistic narratives of moments of democratic failure, which Maxwell explains tend to encourage deference to law, lost cause narratives "make claims of democratic failure, but never portray failure as *just* failure. They also highlight the (actual and possible) seeds of democratic resistance and political action contained therein."[32] Focusing on the Furies' relationship to oaths, rather than their (unbelievably swift) pacification by Athena, I animate a critical feminist exploration of how rhetoric shapes the conditions in which voices are heard as legitimate and authoritative in democratic societies. Bringing gender as an analytic lens to bear on the *Oresteia*'s developmental account of oaths – in the progression of the trilogy, they go from ritualistic to civic and formal – highlights the rhetorical dimensions of patriarchal injustice that earlier feminist readers of the tragedy have played down in favor of more fatalistic readings that emphasize women's domination by law alone.

In Froma Zeitlin's hands, for instance, the tragedy is a "gynocentric document," its mythopoetic quality having to do with how Aeschylus writes a "new genealogy [of the Furies] as parthenogenic off-springs of Night," rendering the principle of vengeance that they represent "as wholly female," and indeed, "female in its blackest most negative manifestation." Zeitlin's feminist interpretation astutely points out how the crimes committed by Argive males come to take

[31] Lida Maxwell, *Public Trials: Burke, Zola, Arendt, and the Politics of Lost Causes* (Oxford: Oxford UP, 2014), 3.
[32] Lida Maxwell, *Public Trials*, 5-6.

a back seat in Aeschylus' narrative to those committed by females "in the *rhetorical* progression the drama."[33] Zeitlin's mention of rhetoric here is important, opening up a line of interpretation that her own study does not follow through. Indeed, her off-handed italicization of the word 'rhetoric' reveals an important blind spot in her interpretation that is consequential for our understanding of justice, and that the present study works to address. More precisely, it shows that Zeitlin treats the drama's rhetorical progression as a matter of secondary concern, giving precedence in her analysis to what we then surmise is 'actually' represented to us in the tragedy: in her words, "the definitive hierarchical disposition of male and female statuses." Received gendered meanings dominate this kind of interpretation, missing how rhetoric constitutes the conditions of audibility of political claims to justice.[34]

Attending to the constitutive instability that attends both the scene of the sworn word and the kinship relation in my analysis of the Furies, guardians of both, this chapter has two goals. The first is to show how the Furies' failed oath-challenge to Orestes in the *Eumenides* can be read as a political, rather than merely legalistic, act.[35] By employing a practice of speech that is at once ritualistic and juridical at the Areopagus—a court most esteemed for its strict criteria of relevance and its "reputation for legalism," as opposed to the popular courts, which considered both legal

[33] Zeitlin, "The Dynamics of Misogyny," 173.
[34] Zeitlin, "The Dynamics of Misogyny," 163; 156; 167.
[35] In seeking to read the Furies as political actors, here I disagree wholly with Desmond Manderson, who has argued that the Furies are the most legalistic figure in the trilogy. Manderson writes that "everything about the Furies is literal. They are the literalization of a nightmare." Reading him generously, I agree with Manderson that they are the *personification* of a nightmare— they represent the threat of unchecked anger, curse, and of contagion—but a personification does not a literalization make. One has only to think of the Pythia's opening lines in the *Eumenides,* where she is unable to compare them to any living thing (*Eum.* 50-57). See Desmond Manderson, "Athena's Way: The Jurisprudence of the *Oresteia.*" *Law, Culture, and the Humanities* 15, no. 1 (2019): 253-276, 263.

and extra-legal argumentation relevant to juries[36]—the Furies' oath-challenge is unseemly. It is political, to speak with Rancière, because it "makes obvious the extraordinary imbroglio marking the [Athenian democracy's] relationship" to ritual and kinship, on the one hand, and to positive law on the other—put differently, "between the part of women and the very definition of the common of the community."[37] The second goal is to illustrate how this rhetorical analysis generates insights into the dynamics of women's exclusion from justice that do not pertain exclusively to formal law. My reading helps us to see possible seeds of democratic resistance, to invoke Maxwell's language, in the Furies' failed attempt at registering their claims to justice at court. What emerges in my account of their failed oath-challenge to Orestes is a practice of political claims-making that challenges the conceptual dualism between vengeance and justice that is naturalized by way of Athena's binding of the latter to the institution of the law court.

I begin with an overview of the role of oaths in Athenian society and in the Greek conception of justice, paying particular attention to draw out the gendered quality of the oath as an authoritative speech act as well as its relationship to practices of judgment in law-courts. In the next section, I critically examine feminist interpretations of the tragedy, showing how an analytical focus on domination has obscured the subtler workings of patriarchy that are depicted in the tragedy's account of oaths. By way of conclusion, I spell out the political implications of my oath-centered reading for the broader feminist theory of vengeance put forward in this dissertation. The sworn word's constitutive relation to forms of injustice that cannot be codified into law, such as crimes of complicity and betrayal, I show, is also what renders its speakers and guardians the

[36] Adriaan Lanni, *Law and Justice in the Courts of Classical Athens* (Cambridge, UK: Cambridge University Press, 2006), 81-82.
[37] Rancière, *Dis-agreement,* 41.

Furies into the vengeful antitheses of justice we tend to remember them as today. Attending to the oath as rhetorical strategy of inclusion that functions as a supplement to formal legal justice, I argue, allows us to hear their voice politically anew.

*Oaths, Gender, and Justice in Fifth Century Athens*

To re-animate the ancient function of the oath in Greece – and so to excavate its importance in sustaining the democratic *polis*– is a task that requires a profound work of de-familiarization. To contemporary readers, the meaning of the oath will have already been reduced in scope. One may even argue, writes Shklar, "that oath-taking has been trivialized" in American society "by over-use."[38] Oaths are likely to recall juridical rituals of institutional allegiance and fealty, such as the oaths of office sworn by elected representatives or by inductees to the professional orders of law or medicine. They are less likely to suggest the "quotidian public acts of speaking among citizens," to speak with Zerilli, that sustain the public realm and, in turn, sustain flourishing democratic political communities.[39] Yet, a closer look the practices and rituals of oath-swearing and -keeping in ancient Greece at the time of the *Oresteia*'s first performance shows that the oath had not always, nor had it even necessarily, such juridical connotations.

If in the fourth century B.C. Lycurgus would state of the oath that it was "the power which keeps [Athenian] democracy together," it had already lost some of the power it held under the guardianship of the goddesses charged with its protection.[40] Where for Lycurgus, the oaths sworn by (male) archons, (male) jurors (*dikastēs)*, and (male) private citizens (*idiōtēs*) in turn together

[38] Judith Shklar, *Ordinary Vices* (Cambridge, MA: Harvard University Press, 1984), 185.
[39] Linda Zerilli, *A Democratic Theory of Judgment,* (Chicago, IL: University of Chicago Press, 2016), 33.
[40] Cited in Sommerstein and Bayliss, *Oath and State,* 9.

build up the Athenian state, oaths sworn and guarded by the Furies would include speech acts made in private by men, women, and non-citizens alike. Indeed, oaths were ubiquitous in private interactions between citizens. At the most general level, explains Catherine Mardikes, "an oath is a kind of contract set up to ensure specific conduct," and is sworn in cases "when one has no guarantee that an individual will tell the truth or fulfill a promise," circumstances in which an oath is needed to "lend legitimacy to the words of promise.[41] In normal business transactions between private citizens, then, "oaths are positively avoided," because to swear oaths in such cases would communicate that there exists a lack of trust between the parties.[42] The presence or absence of an oath in a given interaction reveals the status of a relationship between individuals.

An oath's presence or absence in a given case of dispute or quarreling is significant, because while oaths can create trust, their absence can also signal "a mutual understanding where there perhaps shouldn't be one, or an absence of trust which is simply so total that no oath can fill the space or heal the breach."[43] Given women's exclusion from the formal institutions of state in which men's credibility and authority could be performed, established, and challenged, women's extra-juridical uses of oaths can be seen as a way for them to claim to the legitimacy, credibility, and authority granted to men's speech acts. Indeed, the only way for women's testimony to be heard in Athenian law courts was by way of evidentiary oaths, which women swore outside of court, and which then enabled male litigants to refer to their testimony in court.[44] Understood in

[41] Catherine Mary Mardikes, "Curses and conspiratorial oaths in the "Oresteia" of Aeschylus." (Ph.D. Dissertation, University of Chicago, 1994), 9.
[42] Sommerstein and Torrance, *Oaths and Swearing,* 75.
[43] L.A. Kozak, "Friendship and enmity, trust and suspicion," in Sommerstein and Torrance, *Oaths and Swearing,* 65.
[44] Kamen, *Status in Classical Athens,* 91.

this light, oaths sworn by women are rhetorical strategies by which they may seek access to the discursive trust and legitimacy granted as a matter of course to Athenian men.

While Athenian women were full citizens, they remained under the supervision of male guardians and were not granted the same rights and entitlements as Athenian men. Women, explains Deborah Kamen, "could attain social advantages through the honors and privileges granted to them in [their] capacity as priestesses, or leaders and magistrates in ritual contexts," but not in legal and political ones.[45] "The weaker oaths of female characters" in the *Oresteia,* explains Fletcher, "and their incapacity to swear a proper oath" in the trilogy, are reflective of the social realities of fifth-century Athens, "where women did not visible participate in democratic assemblies and law courts"– a society, in other words, "in which women lack authority."[46] Women's authority was restricted to the realms of religion and ritual, and even then, women's assemblies provoked anxieties amongst Athenian men. In sum, women could and did swear oaths in fifth-century Athens, and indeed, their testimony "might be used in civil suits in the form of an oath challenge," but otherwise, "they did not participate in the political or legal life that public oaths helped to construct."[47]

In the rhetorical progression of the *Oresteia,* women's oaths are invoked but they are performed off-stage. They gradually recede from view, until finally, in the Furies' failed attempt at an oath-challenge (*Eum.* 440-5), they are denied even the faintest of public appearance. The two oaths that are sworn by female characters in the trilogy fail to meet the criteria proper to an oath that would be binding, thereby reflecting women's social status. Where Clytemnestra's malformed

[45] Kamen, *Status in Classical Athens,* 94.
[46] Fletcher, *Performing Oaths*, 46.
[47] Fletcher, *Performing Oaths,* 46.

oaths in *Agamemnon* represent failed attempts to negotiate an end to the cycle of kin-murder and vengeance ensnaring the Atreid house, Cassandra's attempt at exacting an oath from the Chorus of Elders in the same play marks the beginning of the trilogy's juridification of what the oath - women's attempts, I have argued, to be heard as credible and politically authoritative in the male-dominated society - seeks to performatively enact. Yet feminist interpretations of the trilogy's codification of patriarchal injustice into law have overlooked this crucial moment in the play's account of law and justice.

When Clytemnestra invites Agamemnon's concubine Cassandra into her palace, the latter is transfixed and begins a dialogue with the Chorus of Elders in which the famed seer predicts the Queen's murderous plot (*Ag.* 1100-5). Cassandra asks them to "bear witness" to her insight that a curse has been placed on the House of Atreus, asking for confirmation that what she says is true. "Am I a fraud,/ a fortune-teller babbling lies from door to door?/Swear how well I know the ancient crimes that live within this house" (*Ag.* 1999-1202). The Elders refuse to guarantee the truth of her words with an oath, indeed, they do not seem to see any value in doing so, and are entirely befuddled by her request: "And if I did?/ Would an oath bind the wounds and heal us?" (*Ag.* 1203-4). Their bewilderment is indicative of the understanding of oaths that would have been common the tragedy's fifth-century audience, namely, that oaths guarantee the truth of statements – a guarantee backed by the threat posed by the Erinyes to perjurers or speakers of false or otherwise deceitful oaths. Yet the Elders' interpretation of Cassandra's request for an oath takes on a legalistic tone that is discordant with the pre-*Eumenides* world of Argos depicted in the *Agamemnon*, in which no formal institutions of law exist. Thus, the ubiquitous rhetorical practice that governed behavior in both civic *and* private life in the ancient world and was, in the latter,

customarily the province of women, is confounded with a juridical procedure that Athena, by the tragedy's end, will codify as a perversion of and pollution in the business of democratic judgment.

Where Cassandra may be read as attempting to establish relations of trust with the Elders, the juridical procedure the Elders' response to Cassandra invokes is not this widely recognized cultural practice but the oath-contest (or "test oath") in particular. Prior to the constitutional reforms begun by Solon which revolutionized the judicial system and saw judgement by individual magistrates gradually reduced in scope in favor of judgment by the people, oath-contests were often decisive of the outcome of a trial.[48] Notwithstanding these broader changes in the judicial sphere, the Areopagus Council before which charges of homicide were brought retained the practice of oath-swearing as a preliminary move. As Alan Sommerstein explains, the "parties could only get to court by swearing to the truth of their respective claims" even while, once in court, "the issue between them was decided […] by arguments and evidence."[49] Even at homicide trials, oaths were sworn by prosecutors, witnesses, and accused alike – but the parties swore them not to give up judgment to the gods. Human justice and democratic judgment existed alongside the sworn word.[50] The practice of swearing oaths at trial, explains Fletcher, "reinforced the gravity

[48] Sommerstein and Bayliss, *Oath and State,* 69; See also Gerhard Thür, "Oaths and Dispute Settlement in Ancient Greek Law," eds. Lin Foxhall and Andrew Lewis *Greek Law in its Political Setting: Justifications not Justice* (Oxford: Clarendon Press, 1996), 57-72.

[49] Sommerstein and Bayliss, *Oath and State,* 115.

[50] When Athena denies the Furies oath-contest in the *Eumenides*, Marcel Detienne takes these lines to be illustrative of the "moment in the history of law [that] illustrates the decline of magicoreligious thought" and prelegal thinking.[50] Even while we see that oaths continue to be an essential feature of ancient Athenian democracy even in the fourth century, Detienne suggests that here, "the technicality of the swearing of oaths […] gave way to discussion that allowed reason to put forward arguments," giving "judges a chance to form opinions" based on them, that is, on "social ratification" rather than on "magicoreligious power." While Detienne tracks a real development in the Athenian judicial system, his progressive reading of the evolution of law does not sufficiently attend to how the oath remained an important feature of Athenian legal process, even if its meaning and function changed. See Marcel Detienne, *The Masters of Truth in Archaic*

of all that was said in the trial and its proceedings."[51] Oaths, in other words, performatively affirm a given institution, proceeding, or topic of dispute as an important one that is of concern to the community as a whole. At court, they lend *gravitas* to what otherwise may be seen as petty, private, and unserious disputes. Where formal contracts do not exist—else, when women are barred from entering into them and not recognized as legitimate parties to them—oaths register a concern as a public and political one.

Where private oaths create a trust relationship or reveal a lack of one, public and political oaths establish the significance of an issue at court—a significance that, in turn, participates in creating the meaning of the common political community. Orestes' refusal to swear an oath prior to his trial, then, is a marked violation of established procedure in fifth century Athenian homicide courts. But more consequentially, it is a strategic evasion that has consequences for what is heard as a matter of public and political concern by jurors and the audience in the tragedy's trial and pre-trial scenes. For the Furies, having Orestes swear an oath would be for him to claim his matricidal act as a consequential one. His refusal to do so allows him in effect to evade the very political significance the Furies seek to register for the crime of matricide. This is not to say that Orestes denies his deed. He specifically states, "I killed her. There's no denying that" (*Eum.* 585). While to "claim 'I will not deny my deed' is to refuse to perform a denial," explains Butler, "it is not precisely to claim the act. To say 'Yes, I did it,' is to claim the act, but it is also to commit another deed in the very claiming, the act of publishing one's deed," which "becomes an act that reiterates the act it affirms […] by performing its avowal in language."[52] The Furies understand the rhetorical

---

*Greece*, Trans. Janet Lloyd, (New York: Zone, 1996), 104-5.
[51] Fletcher, *Performing Oaths,* 60.
[52] Butler, *Antigone's Claim*, 8, 11.

significance of Orestes' refusal to claim his act. Yet feminist interpretations of these scenes have insufficiently attended to the seeds of possible feminist critique in the Furies' failed oath-challenge, focusing instead on how their role as avengers of crimes against kin and of matricide in particular has been suppressed by Athena's new legal order. The feminist reading I propose here treats the scene of the sworn word as the condition of possibility of the kinship relation, opening up the *Oresteia*'s account of justice for feminists anew by recovering the Furies' political voice.

*Oaths that (un)Bind*

I have suggested that feminist readers of the *Oresteia* and its account of law and justice have overlooked what Mara Marin calls "the vulnerability integral to the law" that an oath's presence or absence in a given situation may lay bare.[53] This vulnerability, explains Marin, "is made invisible by a conception of laws as independent from and opposite to acts of judgment" and interpretation.[54] This is the conception of law that the Furies' failed oath-challenge, I argue, seeks to reveal as an ideological one. Placing emphasis on the Furies' role as protectors of oaths and tracking invocations of oaths in the tragedy helps feminist readers to see how democratic justice itself has becomes gendered in the *Eumenides* by way of its rhetorical construction as synonymous with a view of law as standing above and outside of the realm of politics.

If the only oath that is actually sworn on stage is Orestes' oath of military alliance, feminist readers of the tragedy have reminded us that this civic peace comes at cost. That a matricide comes to be tried as a homicidal act like any other, feminist readers have rightly noted, is not incidental

[53] Mara Marin, *Connected by Commitment: Oppression and our Responsibility to Undermine It* (New York: Oxford University Press, 2017), 85.
[54] Marin, *Connected by Commitment,* 74.

to the new justice established in the *Eumenides.* Matricide's lack of recognition as a particular kind of injustice done to female kin is the condition of Athena's vote to acquit. That Agamemnon's murder prompts Orestes' return from exile to avenge him, but Clytemenstra's death does not see her daughter Electra do the same, Amber Jacobs argues, stems from the impossibility of "giving symbolic expression to the mother-daughter relation" in the dominant patriarchal symbolic order that finds its expression in Greek myth.[55] This may well be the case, but it overlooks how the Furies *do* seek to make visible the symbolic injustice implied by Orestes' act, whose meaning cannot be captured by the law-court's judgment of his guilt or innocence.

If matricide itself is denied concept status in the tragedy, so too is the idea of maternal filiation altogether. Yet feminist readings of the tragedy have paid such close attention to the *explicit* mentions of the sexes in Athena and Apollo's arguments that they have missed how the Furies rhetorical attempt to have the crime of matricide seen as a political injustice itself becomes gendered in the trilogy's pre-trial and trial scenes. Their very manner of making a political claim, the oath, comes instead to be dismissed as impertinent to, and indeed, a perversion of, the very business of democratic judgment.

Before the juror's lots are cast, Athena explains why she will cast her lot for Orestes,

> No mother gave me birth.
> I honour the male, in all things but marriage.
> Yes, with all my heart I am my Father's child.
> I cannot set more store by the woman's death –
> She killed her husband, guardian of their house.
> Even if the vote is equal, Orestes wins. (*Eum.* 751-756)

[55] Amber Jacobs, *On Matricide: Myth, Psychoanalysis, and the Law of the Mother* (New York: Columbia University Press, 2007), 34, 25.

Having "sprung full-blown from Olympian Zeus,/never bred in the darkness of the womb" (*Eum.* 675-6), Apollo exhibits this male-identified goddess, just moments prior to her decision, as evidence for his specious argument that women do not play a role in the reproductive process. "The woman you call the mother of [Orestes]/ is not the parent," he argues, but "just a nurse to the seed" and a merely host for the life whose source is "the one who mounts" (*Eum.* 666-70). For Arlene Saxonhouse, this "denial of maternity is imposed by the gods" of necessity, because it would "not come by nature to those who are human" and thus "born of both a mother and a father."[56] Put differently, this argument from biological exception is unpersuasive, and through it, writes Saxonhouse, Aeschylus "shows us that the city is not built on justice, on *what is due to each*, but on the conquest of what is natural."[57] These interpretations track the tragedy's references to the ideology of sex difference in order to argue that, in Aeschylus, the creation of law enshrines patriarchal rule.

A distributive understanding of justice as what is due to each, however, reduces the Furies' role to the pursuit of a mother's vengeance, where the question of what that vengeance would look like is already captive to a legalistic conception of justice that feminists might otherwise contest. The Furies have assented to the trial and agreed that it be judged by Athena and her jurors; they have shown themselves to be amenable to a form of redress for the matricidal injustice that would not consist in the kind of eye-for-an-eye, in-kind retribution that vengeance represents. A broader appreciation of what the Furies' claims represent emerges from an analysis of their attempted oath-challenge: one that opens up the radical entanglement of justice and gender anew. Their oath challenge seeks to make visible not only that matricide is a crime done to women specifically, but

[56] Saxonhouse, "Misogyny, Philogyny, and Justice," 26.
[57] Saxonhouse, "Misogyny, Philogyny, and Justice," 28.

also that it represents a heinous act of pollution in Athens that has consequences for the broader political community. The new justice represented by Apollo and Athena denies the importance of kinship ties and of oaths, traditionally the provinces of the Furies, to questions of justice and injustice. In fact, their arguments have rhetorically positioned these spheres of concern as pertaining to the pre-civil, private place of vengeance. An interpretive focus on oaths opens up the question of law for feminist readers anew. More than a mere instrument that legitimates patriarchal rule, we see how the law court's positioning, in and through Aeschylus' narrative, as uniquely capable of delivering justice relies crucially on the oath's re-signification by Athena and Apollo in the course of the pre-trial scenes.

When the Furies protest to Athena that Orestes refuses to receive or give an oath, she responds to them by saying that they "want to be called just rather than to act justly" (*Eum.* 430). She interprets their plaint as a reflection of their rigidity and inflexibility, what Desmond Manderson has called their "unwise positivism."[58] Writes Manderson,

> Like positive law, the Furies insist on doing their legal duty with abstract and pitiless determination They argue that their job is simply to follow the law: blood for blood and wound for wound. It is an equation simply put and simply applied. […] The Furies *hound* Orestes on the basis of two pitiless principles: blood is a fact that admits of no doubt, and the law is a fact that admits of no exception. From indisputable factual basis to inescapable legal consequence, from a factual cause to a logical effect, the Furies reject the siren song of interpretation and refuse all suggestions of the indeterminacy of justice.[59]

This interpretation of the Furies as legalistic characters rests upon Manderson's argument that "their rhetoric is based on concealing and denying its own rhetorical character."[60] But if we understand the oath as a supplement to and reminder of the possibility of deceit and betrayal that

[58] Manderson, "Athena's Way," 265.
[59] Manderson, "Athena's Way," 263.
[60] Manderson, "Athena's Way," 263.

attends both the scene of the sworn word and the kinship relation, might we interpret these lines differently? Can we not hear the Furies' attempted oath-challenge as an attempt to make visible rather than to conceal the contingent, contestable, and political grounds of legal justice?

Athena's pronouncement in the pre-trial scene that "[i]njustice […] should never triumph by oaths" (*Eum.* 445) is decisive in the unfolding of the trial and Orestes' acquittal by the Areopagite jury.[61] The tragedy's audience has been prevented from hearing Orestes swear that he will tell the truth at trial, but further, that he alone killed his mother and that he believes that act to have been just. Apollo's argument – the textual focus of feminist interpreters of the tragedy– also denigrates the oath, but this aspect of his argument has received insufficient critical attention. In the course of the trial, Apollo makes the argument that the bonds of marriage and not the kinship relation are "the source of mankind's nearest, dearest ties" (*Eum.* 214). He thereby suggests that Clytemnestra's murder of her husband was more worthy of invoking the Furies' wrath than her own matricide by Orestes. Apollo's words do not merely naturalize the marriage-relation but, further, make explicit the gendered background against which the *Eumenides* denigrates oaths as no longer needed to ensure justice.

> Why, you'd disgrace - obliterate the bonds of Zeus
> and Hera queen of brides! And the queen of love
> you'd throw to the winds at a word, disgrace love,
> the source of mankind's nearest, dearest ties.
> Marriage of a man and wife is Fate itself,
> stronger than oaths, and Justice guards its life.
> But if one destroys the other and you relent -
> no revenge, not a glance in anger - then
> I say your manhunt of Orestes is unjust.
> Some things stir your rage, I see. Others,
> atrocious crimes, lull your will to act. (*Eum.* 211-221)

[61] The Greek is open to several possible renderings in modern English, one of which is "oaths must not win victory for injustice," however, I have elected to use the Fagles translation here for consistency.

Apollo here suggests that there is a sharp qualitative difference between the bonds established in the private marriage contract and those established by public oaths in the democratic society, specifically relegating the bonds of kinship as standing outside of the sphere of justice.

The importance of oaths in creating, affirming, and sustaining the relations of trust required for civic life is diminished by Apollo and Athena, who seem to suggest that only legally recognized, formal contracts between individuals give rise to questions of justice and injustice. But the ubiquity of the practice of swearing oaths in fifth-century Athenian society makes clear that these relations of trust cannot be presumed but need to be fostered and affirmed by speech acts uttered in the presence of others. Athena seems to recognize as much, but she "initiates a new kind of oath," the *dikast's* oath, "which establishes order, not mayhem." By establishing the sanctity of the judge's oath, explains Catherine Mardikes, what otherwise may be seen as "conspiratorial and fractious oaths in the trilogy are rehabilitated and receive a constructive place within [the] newly civilized community."[62] "You must rise," Athena beckons the jury, "each man must cast his lot and judge the case, reverent to his oath" (*Eum.* 725). Sommerstein and Bayliss have established that the fifth-century oath taken by jurors and archons would have gone something like this:

> I will vote according to the laws and decrees of the Athenian people and of the Council of Five Hundred; and on matters about which there are no laws, I will vote according to the justest [sic] opinion. And I will give an equal hearing both to the accuser and to the defendant, and I will cast my vote upon the actual matter which is the subject of the charge.[63]

If oaths were previously used in the service of holding individuals accountable to the gods, here their primary addressee, even while sanctioned by reference to gods, is to the Athenian polis. Only

[62] Mardikes, "Curses and conspiratorial oaths," 219.
[63] Sommerstein and Bayliss, *Oath and State,* 79.

oaths sworn in spheres already recognized as political will heretofore be recognized as binding. But the definition of what counts as political at Orestes' trial is precisely what the Furies seek to contest.

The oath the Furies would have wanted Orestes to swear would be to the truth of their statement only a few lines earlier, namely that "he murdered his mother – called that murder just" (*Eum.* 437). If Orestes does not deny that he murdered his mother (*Eum.* 594), his refusal to swear an oath is itself an act. His silence enables him to escape public ownership of his deed, whose recognition as a polluting act would prevent him from taking public office. Instead, he restores his inheritance of the throne of Argos and will heretofore be remembered as a hero. If he were to have sworn the oath the Furies asked of him, the crime of matricide would have – as the Argive alliance does – come to register to the audience and to the jurors as politically significant. Instead, the heinous crime of matricide, an act of ritual pollution to which Orestes refuses to attest, does not register to its audience in its severity and gravity for the community as a whole. The Furies' insistence upon Orestes' acquittal that an act of pollution has gone unaddressed and threatens to have dire consequences for the political community – what Athena interprets as threats against her land – becomes evidence that they represent the antithesis of justice, rather than reminders of its irreducibility to law, whose criteria of relevance are not objective but reflect the gendered inequalities of Athenian society.

We should interpret the Furies' oath-challenge as a way for them to register authoritatively, before the jurors, what the 'actual matter' that is being judged at trial is: a gendered injustice. When Orestes cowers behind Apollo in the trial scene, he makes it unclear to the jury whether he or the god was primarily responsible for the act in question. For the Furies, having him swear the preliminary oath would have the effect of determining the 'actual matter of the charge' differently.

At issue would no longer be the question of individual guilt, which is the kind of guilt that the court seeks to judge and is not what the Furies intend to prove with the oath. For the Furies, the significance of the crime of matricide is irreducible to individual guilt – for Orestes to swear an oath would be to encourage a collective and political reckoning with the broader injustice that his act of matricide represents. Forgoing this procedure allows the trial scene to be subject to manipulation on the part of the defendant and Apollo. The stage is set such that the issue becomes not Orestes' individual guilt, but rather the extent to which he alone should be held responsible for an injustice that is presented as if it were unavoidable, part of the social fabric at Argos and incapable of being judged with reference to a single individual or act. The Furies' failed attempt at getting Orestes to swear an oath and their demand's re-signification before the *Oresteia*'s fifth century audience as a rigid adherence to procedure, rather than an attempt at making a political claim, has important ramifications for the tragedy's account of justice.

As noted above, feminist interpreters have criticized Apollo's suspect argument that the mother has no share in biological reproduction, but little attention has been paid to the particular question from the Furies' leader to which this argument is a response. "Can a son spill his mother's blood on the ground," she asks, "then settle into his father's halls in Argos?/Where are the public altars he can use?/Can the kinsmen's holy water touch his hands?" (*Eum.* 661-4) The Furies are here pointing to consequences for the broader political community that result not just from any homicide, but from kin murder in particular: a threat of pollution that affects the entire polis. As Margaret Visser has shown, beliefs about pollution and practices of pollution-avoidance continued

to hold sway in fifth century Athens, existing alongside and serving as a supplement to juridical institutions.[64] Even a legally acquitted matricide would carry the threat of pollution.

When Apollo responds to the Furies' question by denying that any kinship tie exists between mother and son, his showy biological argument not only evades the question posed by the Furies but changes its meaning. They are pointing out that ritualistic concerns (pollution from kin-murder) cannot be separated from public and political ones (Orestes taking the throne at Argos or using a public altar).[65] More directly, they are pointing to the joint presence of personal and public harm that inheres in acts of institutional betrayal. By simply denying the kinship relation, Apollo excludes these concerns as supplemental to the kinds of questions that matter to the democratic court, and thus, to the community as a whole. For him to answer the Furies' question on its own terms would be for Apollo to assure the jurors that he has already sent Orestes to be purified at Delphi, which would reveal that this was no supplemental ritual performance. Indeed, Orestes' first words at trial ensure Athena that she can "sweep" the threat of pollution from her mind (*Eum.*

---

[64] Margaret Visser, "Vengeance and Pollution in Classical Athens." *Journal of the History of Ideas* 45, no. 2 (1984): 193-206.

[65]The point here is to say that the legal punishment of crimes did not wholesale transcend 'pre-civil' ideas that one individual's crime might seep into and permeate the broader moral community. Indeed, the second day of the annual Anthesteria festival, one of many annual celebrations in honor of Dionysius and one of the earliest attested of all Greek festivals, made explicit reference to Orestes' mythical return to Athens. Walter Burkert explains that on the festival's second day, named Choes for the pitchers from which citizens drank, Athenians would depart from their usual customs of drinking from a single, collective pitcher, each drinking solemnly and quietly out of their individual pot. So while the festival's emphasis on spring and the harvesting of new wine and its practices of gift-giving for children may lead us to think of it as mere merriment, he writes, "the background for this day's merriment" was an aura of solemnity: "the day of the Choes was a "day of pollution." On that day citizens did not share drink, or perform any political acts, because they could not do so in the presence of a man polluted due to committing matricide. Walter Burkert, *Homo Necans: The Anthropology of Ancient Greek Sacrificial Ritual and Myth* (Berkeley, CA: University of California Press, 1985), 218.

467). Apollo cannot bring it up again, for doing so would admit that a ritual act matters in the eyes of the court. The legalism Manderson ascribes to the Furies is here on full display in the evasive strategies employed by the defendants—the social conditions in which judgments take place, are interpreted, and are legitimated are positioned as outside of the impartial space of law.

Aeschylus' narrative positions both the oath-ritual and the female goddesses charged with its protection as uncontainable forces of chaos in need of civilization. "Exploiting the gender stereotype of his culture, writes Fletcher, "Aeschylus suggests that female characters distort or misuse the oath to demonstrate how the oath needs to be fashioned into a tool of the democratic polis."[66] Now that the Furies have been so associated with the distorted oaths that drive personal vendettas, only oaths that contribute to the function of courts and diplomacy become worthy of the name. At the *Eumenides*' close, the contracts or promises between individuals that sustained and created relations of trust that oaths once represented are now legitimate only if they have been mediated by the state. Where no written law exists, no injustice can rightly be said to have taken place. What is left of the ideals of balance and equality that have shaped political theoretic interpretations of the tragedy is the equal right to bring matters to court; what is lost is the performative quality of oath-swearing and -taking as a democratic practice unmediated by the state—the public utterances which create trust between parties and without which no individual would feel bound to uphold his or her word.

Justice, for the Furies, would require that individuals like Orestes be capable of standing by what they have done in public. Justice would mean that Orestes would be held to account for his matricidal act, where that accountability would arise out of his having sworn the oath and

[66] Fletcher, *Performing Oaths,* 56.

claimed his act. His failure to do so inscribes a betrayal and a complicity with injustice into the very foundational story of law's evolution from the rule of vengeance, and as a consequence, positions claims that seek to lay bare these 'unwritten' crimes as themselves vengeful attempts at undermining the workings of public justice. When Athena announces that the case of murder brought before her is too grave for her alone to decide (*Eum.* 486) and exits the stage to "pick the finest men of Athens [… to] decide the issue fairly, truly –/bound to our oaths, our spirits bent on justice" (*Eum.* 502-505), the Furies mourn an understanding of the oath as necessary social practice that establishes relations of trust between individuals and provides a grammar through which acts that break that trust can be registered as politically significant. They form a chorus and chant,

> Here, now, is the overthrow
> of every binding law – once his appeal,
> his outrage wins the day,
> his matricide! One act links all mankind,
> hand to desperate hand in bloody license.
> Over and over deathstrokes
> dealt by children wait their parents,
> mortal generations still unborn.
> […]
> Man to man foresees his neighbour's torments,
> groping to cure his own –
> poor wretch, there is no cure, no use,
> the drugs that ease him speed the next attack. (*Eum.* 506-521)

The gravity and severity of Orestes' act has not been communicated to the audience by the oath. These betrayals of the nature and function of the oath at the heart of Athena's new law court have sown a poison into the institution for which, the Furies suggest, there will be no cure. Orestes' acquittal in public has sown a complicity with injustice at the heart of the foundations of legal judgments of right and wrong such that 'the next attack' – another matricide, another infanticide – is all but certain. The force of the oath to call into being the relations of trust that bind citizens to

one another in democratic association has been deemed inconsequential to justice, newly identified with positive law and procedure alone.

*Conclusion: Politicizing the Vengeful Woman*

The Furies' transformation from vengeful to benevolent in the *Eumenides* has been the crux of both feminist and democratic theorists' interpretation of the tragedy's account of justice – and for good reason. The goddesses are introduced in *The Libation Bearers* by way of Orestes' imagination; they are machinations of his guilty conscience that have yet to appear on stage or be seen by the audience. These women who look "like Gorgons, shrouded in black, their heads wreathed, swarming serpents" (*Lib.* 1047-49) come at him "thick and fast,/their eyes dripping hate" (*Lib.* 1056-57) at the matricidal son. The opening lines of the *Eumenides* contribute further to the Furies vilification, with the Pythia's (priestess of Apollo) inability to describe them or even to compare them to any living thing. "[W]omen? No,/ Gorgons I'd call them; but then with Gorgons/ you'd see the grim, inhuman…" she exclaims. Unable to identify the Furies, the Pythia stresses nevertheless that "black they are, and so repulsive," their "heavy, rasping breathing" makes her cringe; they "eyes ooze a discharge" that sickens her (*Eum.* 50-57). That these terrifying creatures will by the curtain's close join the goddess Athena and the women of the city in singing blessings onto the people and the land of Athens (*Eum.* 1045-1050) is a narrative feat that beckons for further explanation. For democratic theorists, the Furies' transformation from vengeful to benevolent by Athena holds the key to the tragedy's account of what democratic justice is, and of what it is not – namely, vengeance.

This chapter has proposed a novel feminist approach to reading the *Oresteia* that recovers the Furies' political voice. I have tracked how these goddesses' interpretation as representatives of

vengeance, the antithesis of justice, can be read as a product of the tragedy's developmental account of oaths. Athena and Apollo's juridical interpretations of the meaning of the Furies' oath-challenge prevents their claims from being heard as political ones. Recovering their role as guardians of oaths, I have advanced an interpretation of the Furies as having a political understanding of justice that exceeds legalistic formulae. I have read seeds of feminist resistance and critique into the Furies' rhetorical strategies, suggesting that the promise they hold out for feminists is of a vision of justice unbound from the questions of individual guilt that concern the court of law; a vision that firmly reveals the contestable and political grounds of law, of authority, and of legitimacy.

Read in this way, the Furies point is not necessarily to see Orestes individually sanctioned by the court of law for his matricide, because to do so would only re-double the crime's definition on individual terms. Their point is rather to challenge his action's ability to be judged in isolation from the patriarchal society of which it is a part, in which men evade responsibility for crimes against women and pervert the sanctity of public offices. Viewed in this light, the *Oresteia* trilogy cautions us not against the excesses of vengeance as opposed to justice, but as to the excesses of a blind commitment to seeking juridical solutions to what are ultimately political problems. The Furies press us to remember that the certainty, order, and stability promised by law is neither guaranteed nor immutable, but subject always to the rhetorical practices of binding and unbinding that take place among ordinary citizens both within and outside of its majestic halls: practices of public speech that, in the *Oresteia*, have been represented as supplemental to, rather than constitutive of, political justice. The oath precedes and founds the reliability of official contracts and laws. As its guardians, the Furies as I have interpreted them here remind us of the contingent

and contestable grounds upon which claims to be acting or speaking justly, rather than in a spirit of vengefulness, rest.

Theirs is the voice of the betrayed, whose grievances—were they allowed to be heard—speak volumes as to the lack of relations of trust woven into the fabric of the very institutions that claim to establish them. The experience of betrayal that the Furies in my reading attest to is particular to their attempt to make a form of gendered injustice legible not only as criminal *for Orestes* but as criminal for the political community as a whole. Betrayal and complicity name harms that are at once public and private—in democratic societies beholden to the ideology of legalism, these are often the only grammars by which minoritarian actors' claims of injustice can be voiced. The real tragedy of the *Oresteia* is that the Furies are heard only and essentially as seeking vengeance, rather than as attempting to voice claims that are indicative of a justice yet to come. Thankfully, their story is not over.

Awoken in the theater by Cixous, we shall see, their reminder of the failures of law as it is currently practiced to deliver justice lives on, bringing to light the injustices that institutions of law perpetuate especially as they claim to guard against them. The Furies' fury is neither "nihilist" (that justice is impossible) nor "anarchist" (that justice must reject all forms of law-making) but a "critical fury," explains Judith Butler. It is one "that forms in relation to an institution that says one thing and does the other, and that claims that only the vengeful and destructive fail to grasp and honor the legitimacy of this institution."[67] It rises, in other words, to confront betrayal, complicity, and hypocrisy, which continue to fester in liberal democratic societies that are beset by gendered, racialized, ethnic, sexual, and class-based inequalities.

[67] Butler, "Fury and Justice in the Humanities."

## Chapter 3. Minoritarian Vengeance: Refiguring Justice in Hélène Cixous' *La Ville Parjure*

> The Eumenides are *remainders* […] Those "from before" [*ci-devantes*]. Killed, forbidden from telling the truth. It is there, under the earth, that I went to solicit their return and their help. I was utterly distraught.[1]

This chapter builds on the conceptual foundations established in Chapter 2. There, I argued that Athena's foundation of the lawcourt and trial by jury in Aeschylus' *Oresteia* establishes a narrowly legalistic, and gendered, understanding of what democratic justice is and who can properly be said to be laying claim to it. I showed how the universalist quality that Athena's new, legal justice comes to take on – as if we could solve all problems through its means – depends crucially on her settlement with the representatives of vengeance and of the extreme case, the Furies. This chapter turns to the work of feminist writer Hélène Cixous,[2] who elaborates on an

---

[1] Hélène Cixous, *Politics, Ethics, and Performance: Hélène Cixous and the Théâtre du Soleil.* trans. Lara Stevens (Melbourne: Re-press, 2016), 116-117. I depart from Stevens' translation, which states that "The *Eumenides* are *the rest* […]" In my view 'remainders' better captures what happens to the Furies at the *Oresteia*'s end. She also writes "Those here before us" rather than "Those from before," which is not an accurate translation of the French "*ci-devantes*," a word from the masculine "*ci-devant*," which historically was a derogatory term used to refer to members of the nobility of the ancient régime, who had lost their privileges after the French Revolution. This historical lineage notwithstanding, the passage does not indicate a spatial relationship to the effect of "here before us."

[2] Cixous' reception in Anglophone feminist circles – as one of three "French Feminists" alongside Julia Kristeva and Luce Irigaray – has been contentious, and part of my aim will be to recuperate her notion of feminine difference from its reception as 'essentialist' in Anglophone circles. Cixous explains that "as women we are at the *obligatory* mercy of simplifications. In order to defend women we are obliged to speak in the feminist terms of "man" and "woman." If we start to say that such and such a woman is perhaps not entirely a woman or not a woman at all, that this "father" is not a father, we can no longer fight since we no longer know who is in front of us. It's so destructive, so destabilizing that those of us who are conscious of what is at stake are often pushed toward a form of interdict." Hélène Cixous, *Three Steps on the Ladder of Writing.* trans. Sarah Cornell and Susan Sellers (New York, NY: Columbia University Press, 1990), 52. On her reception, see Jane Gallop, "French Theory and the Seduction of Feminism," *Paragraph* 8 (1986): 19-24. For a critique of the very category of "French Feminism," see

insight I began to develop there, namely, that Aeschylus' tragedy leaves much unresolved. In and through their liminal position as "remainders," the Furies' symbolic meaning cannot be reduced to the dualistic categories of vengeance, on the one hand, and justice, on the other, that are established by the very settlement their haunting presence under the seat of law calls into question. The Furies' figuration as "from before" [*ci-devantes*], to speak with Cixous, or "old" and "traditional," to recall Euben,[3] forbids them from being understood as revealing truths about law's originary exclusions that continue to bear on discussions of justice in contemporary democratic societies. What remains, explains Cixous, "lingers, subsists, beyond the time allocated through time," confounding categories such as 'before' and 'after', 'old' and 'new'. As remainders, the Furies disturb "what one believes one can imagine as a limit, a border, and an end"[4] to a narrative, pressing us to resist the end of vengeance promised by Aeschylus' ultimately inconclusive tale of the birth of democratic justice in Athena's court of law.

Cixous brings these deconstructionist insights to bear on the *Oresteia* in her own play, *La Ville Parjure ou le Réveil des Erinyes* (1993) [The Perjured City or the Awakening of the Furies], hereafter *La Ville Parjure*.[5] In her estimation, Aeschylus' narrative has neither ended, nor has it

---

Christine Delphy, "The Invention of French Feminism: An Essential Move," *Yale French Studies* 87 (1995): 190-221.

[3] Peter Euben, "Justice and the *Oresteia*," *The American Political Science Review* 76, no. 1 (1982): 22-33, 27.

[4] Hélène Cixous, *Poetry in Painting: Writings on Contemporary Arts and Aesthetics.* eds. Marta Segarra and Joana Masó (Edinburgh: Edinburgh University Press, 2012), 85.

[5] Some initial reviewers of the play translated this title differently, as "The Betrayed City." I stick with the title as translated by Bernadette Fort, who worked with Cixous to bring the play to an American stage in Evanston, IL in 1997. While I work primarily with the original French text, I do consult Fort's translation, which can be found in *Selected Plays of Hélène Cixous.* Ed. Eric Prenowitz (London and New York, NY: Routledge, 2004), 89-190. The question of perjury speaks more clearly to the questions of guilt and complicity in crime that animate my reading of the play as a critique of law. While some readers have interpreted the text as being centrally about political betrayal, I focus more directly on its treatment of the law. For a reading of the

settled "forever more" (Athena) the "proper boundaries" (Euben) between vengeance, on the one hand, and justice, on the other. *La Ville Parjure* is not a sequel to the *Oresteia*, even while the Furies, their mythical mother Night, and Aeschylus himself feature as characters in the play. It is better understood as a feminist re-writing of the tragedy that reveals for its audience the mutual imbrication of law with complicity in unthinkable crime. The contemporary events that Cixous calls on the Furies to help her parse through are crimes not unlike Orestes' matricide, in that they trouble the distinction between public and private upon which Athena's new, legal justice, and by extension, the liberal democratic framework that treats Aeschylus' narrative as foundational, rest. Some crimes, Cixous shows, break these goddesses' settlement with Athena wide open. The Furies give her French audience a way to confront the political injustice plaguing their present. The categories of individual guilt and responsibility – through which Orestes' acquittal was secured and through which questions of justice are normally adjudicated in liberal democratic France – prove insufficient to properly addressing the wrongs that are, for them, in question: crimes of contaminated blood.

*La Ville Parjure* is written in response to a political scandal, "*l'affaire du sang contaminé"* [contaminated blood affair] as it came to be known in France.[6] Cixous brings the Furies onto the stage to assist a mother who is grieving the loss of her hemophiliac sons, young boys whose lives have been cut short due to their injection of HIV-contaminated blood products. Between 1984-1985, the French government played down the risks of HIV infection associated with blood transfusions – a regular feature of hemophiliacs' home treatment. As a result, upwards of 3,000

play that centers betrayal, see Brigitte Weltman-Aron, "Hélène Cixous' *The Perjured City.*" *CR: The New Centennial Review* 12, no. 3 (2012): 67-90.

[6] For an account of this health crisis turned political scandal, see Anne-Marie Casteret, *L'affaire du sang* (Paris : Éditions La Découverte, 1992).

hemophiliacs contracted the disease, with many of them dying of the illness before their claims were brought to court in the 1992 trial of four medical professionals accused of fraud. While they represented only a fraction of the seropositive population in France at the time, hemophiliacs were the only claimants in this highly publicized trial. If their plight rendered HIV-contamination an affair worthy of the nation's attention in the first place, however, the injustice that their claims sought to name was far broader in scope.

At issue – if not directly for the lawyers and judges involved, then for the French public – in this criminal suit turned political scandal was not only the proper scope of the government's and doctors' responsibility to protect the vulnerable in their care, but an even more basic question. Whose lives could and could not be sacrificed in the pursuit of scientific advancement and profit? To re-phrase this question in the semiotic universe of the *Oresteia,* were these doctors and state ministers going to get away with shedding blood and breaking their oaths, without Erinyes rising to hold them accountable? Whose lives could be lost without calling into question these doctors' and ministers' fidelity to the oaths of government and medicine? If these questions were made salient at the national level by the blood affair, they had been acutely so for the gay community in France since the early 1980s.

*La Ville Parjure* was also written amidst the height of gay men's AIDS activism in France - a struggle for justice that found some common ground with hemophiliacs but faced a unique set of challenges.[7] The AIDS epidemic in France sparked a host of homophobic and xenophobic

[7] Michel Setbon outline four "stages" in the normalization of HIV-AIDS in France. The first (1980-1985) he characterizes by denial, ignorance, and indifference, the second (1984-1989) by the appearance of screening and testing measures and mobilization, the third (1989-1992) by the putting into place of public health measures, and the fourth (1996-) as one of stabilization and normalization. In the second phase, he explains, HIV-AIDS infection came to be perceived as a general risk to the heterosexual population that could not be confined to the population of men

anxieties surrounding not only questions of proper political membership – about who was 'properly French,' although blood is always sure to stoke these – but also about who could rightly claim redress for the government's fatal negligence and inaction. More precisely, the epidemic revealed whose claims to justice could be heard as having to do with collective matters of common concern, rather than as private grievances that went too far in their demands either for compensation or for accountability. The uniquely botched response to the global AIDS crisis in France led to the unnecessary loss of tens of thousands from this infectious disease, but the publicity granted to the blood affair revealed clearly that not all of its victims were equally "fit to print," to speak with Cathy Cohen.[89]

In this chapter, I argue that Cixous' theatrical collaboration with Ariane Mnouchkine of the Théâtre du Soleil in this context shows how the bloody figure of vengeance that the Furies were alone to represent at Athens re-appears in many guises in the fifth Republic. By troubling the boundaries between public and private issues that are reproduced in the distinction between justice and vengeance, the blood affair and AIDS crisis created modern Furies. Whether the unhoused, the formerly incarcerated, or queers, the ravenous face of vengeance was mapped onto a variety of claims to democratic justice that the nation refused to recognize as having to do with collective

---

who have sex with men or intravenous drug users. See Michel Setbon, "La normalization paradoxale du sida," *Revue française de sociologie* 41, no. 1 (2000) : 61-78; 62-65.

[8] France had the highest rate of infection among all European countries. While the AIDS epidemic was grossly mishandled by governments around the world, the country's particular ethos of "*bénévolat, volontariat, anonymat*," that is, 'unpaid, volunteer, and anonymous' blood donations led its health leaders to adopt a level of hubris about their national blood-products safety in contrast to the products of countries, like the U.S., where blood products were consistently purchased for cash from high-risk populations. For a comprehensive study of the blood-services industry's emergence and development around the world, see Douglas Starr [1998], *Blood: An Epic History of Medicine and Commerce* (New York: HarperCollins, 2002).

[9] See Cathy J. Cohen, "All the Black People Fit to Print," in *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics* (Chicago: University of Chicago Press, 1999), 149-185.

matters of common concern. The ranks of ACT-UP activists in particular, which had since the Paris chapter's foundation in 1989 taken radical positions in favor of the abolition of prisons and in solidarity with immigrants, came to national prominence only when their direct object of opposition shifted from these broader structural issues to the hemophiliacs' blood affair.

To the relief of some, the contaminated blood affair functionally untethered HIV from its status as a "gay disease" in the national imaginary – in the media, it was construed instead as "the tragedy of hemophiliacs."[1011] In France as around the world, hemophiliacs were considered uniquely innocent, unlike other groups with the highest rates of HIV infection (the other 'three Hs', namely, heroin users, homosexuals, and Haitians).[12] Of these groups, their plight was alone seen as capable of "transcend[ing] ideological oppositions" to finally bring the epidemic to the level of a national tragedy.[13] Where I argued in Chapter 2 that Athena's foundation of a new legalistic justice established a gendered grammar of claims, then, this chapter shows that grammar to be quite capacious. It extends beyond the category of woman to encompass a variety of claims to justice that are not recognized as such.

In this grammar, the claims to justice voiced by ACT-UP and by the hemophiliacs who allied themselves with the group were discredited as vengeful, emanating from a "collective

[10] Cohen explains how, in the United States, the "labelling of AIDS as a gay disease in the early years of the epidemic" instilled "great stigma, discrimination, and bias." Cohen, *The Boundaries of Blackness,* 182.
[11] This language from the title of Casteret's initial piece for *L'Express* (1987): "Sida: La tragèdie des hémophiles."
[12] On AIDS' association with Haitians, see Paul Farmer, *AIDS and Accusations: Haiti and the Geography of Blame* (Berkeley: University of California Press, 1992).
[13] David Caron explains how there was no "real national awareness of AIDS" until the state-sanctioned contamination of hemophiliacs was exposed in 1991, even while an estimated 40% of AIDS cases were found among gay men. See his David Caron, *AIDS in French culture: social ills, literary cures* (Madison, WI: University of Wisconsin Press, 2001), 176.

hysteria" incapable of reasoned deliberation.[14] Put simply, these groups' calls for political justice were feminized, that is, figured as chaotic and frenzied threats to the stability of French political society, in part because they refused the court of law as the unique avenue by which to pursue justice. Employing a diversity of tactics like "*zaps"* and "*pickettings*" and making an uncompromising commitment to the cause of radical liberation, ACT-UP Paris and the few hemophiliacs who worked with them became the face of blood-thirsty, feminized vengeance. Unlike their other hemophiliac counterparts, who sought redress through legal channels, this political grouping was deemed to be intent on vengeance, rather than justice.[15]

These political and ideological circumstances lie at the heart of Cixous' *La Ville Parjure.* My reading of the play shows how Cixous recognizes the double-binds that attend not only women's, but all minoritarian pursuits of justice that take place in the public sphere.[16] Alongside the grieving mother of hemophiliac sons that is its protagonist, her play brings the racialized, homeless, queers, and drug addicts to the stage. It showcases the many disaffected groups that bore the brunt of the AIDS crisis in France, but whose unfiltered representation in media coverage did not arouse the universal sympathy accorded to hemophiliac claimants. In my reading, the grieving mother becomes a stand-in for conventionality, rather than the paradigm of patriarchal

[14] This is how Michèle Barzach – herself a gynecologist and French politician – described and decried the political climate at the time in the pages of *Le Monde.* Quoted in Caroline Bettati, *Responsables et Coupables: Une affaire de sang* (Paris : Éditions du Seuil, 1993), 195.
[15] Patrice Pinell, Christophe Broqua, Pierre-Olivier de Busscher, Marie Jauffret, Claude Thiaudière. *Une épidemie politique: La lutte contre le sida en France (1981-1996)* (Paris : Presses Universitaires de France, 2002), 248-259.
[16] On the notion of a double-bind, see Sandra Lee Bartky, "On Psychological Oppression," in *Femininity and Domination: Studies in the Phenomenology of Oppression* (New York: Routledge, 1990), 22-32, 31.

misrecognition that some feminist interpreters have made the grieving Clytemnestra, in Aeschylus' narrative, out to be.

While such an interpretation of Cixous' play is possible, I suggest it is belied by the play's broader critique of legalism, as well as its many references to the logics of capitalist accumulation by which ethnic, racial, and sexual difference are maintained and reproduced. My reading of *La Ville Parjure* shows how the process of gendering by which certain claims to justice are rendered illegible as such does not only affect women, especially when those women are white and otherwise deemed respectable. The mother who grieves her two hemophiliac sons represents the 'innocent victim' *par excellence*. Neither she, whose child-rearing represents "the physical continuity of the nation,"[17] nor her children, who did not contract the disease sexually, trouble the French public's sense of what constitutes, to speak with Butler, a "grievable life."[18]

It is notable that, when asked about her choice of a Mother as the play's protagonist, Cixous says there is "nothing feminist" about it – "it is boys or men [in the play and statistically] who suffer and die from [hemophilia]," she notes.[19] Reading for gender differently, I propose, we actually see something profoundly feminist in this choice, not because of but in spite of the gender of its protagonist.[20] Attending to the Mother's ability to summon the state's response in the first

[17] This phrasing from Michael J. Bosia, ""*Assassin*!" AIDS and Neoliberal Reform in France." *New Political Science* 27, no. 3 (2005): 291-308, 297.
[18] Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (New York: Verso, 2004).
[19] Hélène Cixous and Bernadette Fort "Theater, History, Ethics: An Interview with Hélène Cixous on "The Perjured City, or the Awakening of the Furies," *New Literary History* 28, no. 3 (1997): 425-456, 444.
[20] For Martha Walker, *La Ville Parjure* "is a production that insists on active involvement by women in social issues" because in it, "women […] have the power […] Women are the concerned citizens, while men, greedy lawyers and despotic rulers, orchestrate the chaos." Walker rightly appreciate the way Cixous and Mnouchkine wed feminism to politics in the theater, but my analysis will contest her interpretation of the dynamics of difference in the text.

place – a response that I show is by no means depicted as benevolent – reveals the extent to which claims to justice must be domesticated in order not to be heard as vengeful. The character of the Mother evokes a real historical person: a mother whose presence at the heart of ACT-UP Paris is credited as having brought the group's activism to bear on the contaminated blood affair.[21] In Cixous' play as in the historical record, she stands alongside the at-risk populations that would be construed by the state as less-than-innocent, guilty of 'irresponsible behavior' such as homosexual sex or intravenous drug use, and consequently, individually responsible for their seropositive status. If in the *Oresteia* vengeance is "posed as wholly female and female in its blackest and most negative manifestation," to recall Zeitlin,[22] *La Ville Parjure* shows us definitively how justice and vengeance come to be construed as opposites along inequitable lines beyond the male/female binary.[23] As we shall see, the Mother who is *La Ville Parjure*'s protagonist doesn't know what she

---

See Martha Walker, "Rehabilitating feminist politics and political theatre: Hélène Cixous' *La Ville parjure ou le réveil des Erinyes* at the *Théâtre du Soleil*," *Modern and Contemporary France* 9, no. 4 (2001): 495-506, 500.

[21] As part of his research in France, Bosia (2005) interviewed a few mothers of hemophiliac sons, among them Agnès Gaudin and Joëlle Bouchet. The former lost two sons to AIDS before the first blood affair trial in 1992, while the latter, Bouchet, joined ACT-UP with her seropositive son Ludovic in 1991 and pressed the organization to make the plight of hemophiliacs a part of their broader social justice agenda. Bouchet was later "expelled" from ACT-UP "by certified letter" because of her "extremism in pursuing justice in the contaminated blood scandal." Frédéric Martel [1996], *The Pink and the Black: Homosexuals in France Since 1968.* trans. Jane Marie Todd (Stanford: Stanford University Press, 2000), p.419fn31. In my estimation, the protagonist of Cixous' play, despite having two sons rather than one, more closely resembles Bouchet than Gaudin.

[22] Zeitlin, "The Dynamics of Misogyny," 163.

[23] In her essay on the metaphors surrounding AIDS, Susan Sontag explains how "the move from the demonization of the illness to the attribution of fault to the patient is an inevitable one, no matter if patients are thought of as victims. Victims," she explains, "suggest innocence. And innocence, by the inexorable logic that governs all relational terms, suggests guilt." See Susan Sontag, *AIDS and its Metaphors* (New York: Farrar, Straus, and Giroux, 1989), 11.

wants from the state, but she nevertheless allows the Furies awakened by Cixous – who want vengeance – to inform her quest for justice.

The Mother wavers as to the question of what justice for her sons and the countless others infected by AIDS would require, never fully endorsing the Furies' wish to murder the state's representatives in cold blood. Notwithstanding her equivocal stance, her cause comes to be discursively associated with "winds of wild vengeance" (31)[24] by the lawyers and agents of the state in the play. The "limitless grief of a traumatized woman," they worry, ignites a malicious wind, that might propagate "all sorts of little insurrections, heralding grave revolts" (31). The state responds to the Mother, but wants to impose strict limits on the nature of the wrong she seeks to name – a wrong that extends beyond her individual case, and would require a collective reckoning with the narrowly legalistic and gendered grammar of claims that render her own as incapable of limitation. "We need limits!," cry the state's lawyers (31); "She's hysterical!" (152). Cixous thus centers feminine grief at the same time as she presents us with a critique of its limitations as a trope through which to understand what is at issue in the kinds of injustice brought to light by the blood affair.

In and through contextual analysis and close readings of *La Ville Parjure,* I argue that Cixous presents us with picture of feminine-identified vengeance as a democratic force for the public wording of injustice—one that exceeds law, and in so doing, re-figures the very meaning of justice. I begin this chapter by theorizing and contextualizing Cixous' theater-writing, with particular attention to how the play's trial scenes can be read as a critique of the legalistic fetish

[24] In-text citations are used only to refer to the French version of the play I consult and translate throughout. Hélène Cixous [1994] *La Ville parjure ou le Réveil des Erinyes* (Paris: Théâtre du Soleil, Éditions Théâtrales, Bibliothèque Nationale de France, 2010).

for the criminal trial. I also attend to the axes of political difference that propel Cixous as a political playwright, suggesting a way to read feminine difference politically in this play. Next, I situate the play in the context of the AIDS epidemic in France and recount the blood affair as it unfolded inside and outside of the courts. Lastly, I perform a close reading of the play that centers the themes of gender, justice, and vengeance. Cixous and Mnouchkine's play, I argue, seeks to call forth a public unmoored from legalistic ideology; a space for the Mother, the Furies, and the otherwise dispossessed in France to have their own trial, away from the law court, whose grammar renders their "irrefutable complaints […] inadmissible" (54) to its altars.

**Justice in 'The Place of Crime'**

> The first god of theater is the event. The event occurs in the theater, the theater is open to the event, that is to say, to the unexpected or unpredictable.[25]

If the criminal legal trial is ultimately a performance, its aim is nevertheless to deliver a verdict of innocence or guilt. To begin this section, I outline how the public Cixous calls forward to judge in *La Ville Parjure* differs from that of a criminal court, where the contaminated blood affair eventually unfolded. While legal trials may have a "dramatic form," they ultimately aim to establish a "felt certainty," to speak with Robert P. Burns,[26] if not for everyone who can tune in to a trial, as the case may be today, then at least for the members of the jury being presented with two competing narratives. The insight that jurors are presented with narratives*,* and not with brute facts – stories recounted to them by embodied witnesses, victims, and lawyers in an interpersonal field – has occasioned a number of salutary studies wedding law with literature and performance. The

[25] Cixous, *La Ville Parjure,* 9. My translation.
[26] Robert P. Burns, *A Theory of the Trial* (Princeton, NJ: Princeton University Press, 1999), 138, 3.

insight has been stretched so far, however, as to lead to an assessment of jurors' decision-making as a paradigmatic instance of democratic judgment.

Some scholars, Burns influential among them, have come to conclude that "a juror's decision" is "a definition of public identity." At issue in the difference between the theatrical trial and the legal trial, however, is the nature of that public. The juror, explains Burns,

> Because he is taking a public action through public institutions, his judgment is inevitably a determination, in a strong sense, of the nature of his community […] By accepting "conversion" to one narrative over another, the juror locates himself in a public world. It is a judgment that [here, Burns invokes Arendt] "does justice to our sense of human plurality."[27]

A trial lawyer himself, Burns' theory of the dynamics and constitutive features of trials is optimistic about "the trial event" and its "indeterminacy," even while he admits that his account is limited to "those cases that actually go to trial."[28] To understand the legal trial as an indeterminate event, a paradigmatic instance of Arendtian democratic judgment, however, is to play down the extent to which the narratives presented to jurors at trial have been thoroughly vetted. Their possible meanings and interpretations have been carefully crafted in advance. The event – the unexpected or unpredictable, to invoke Cixous' remarks above – is the trial lawyer's nightmare, and a veritable anomaly in courtroom proceedings.

If the first god of the theater is the event, the first god of the legal trial is Persuasion. Even if we agree with Burns that the trial is a "speech situation," and so, is less rigid than what he calls the "Received View" of the trial would make it out to be, the language of law is unlike that of

---

[27] Burns, *A Theory of the Trial,* 173.

[28] Burns, *A Theory of the Trial,* 187-188. Of the very small percenter of criminal cases that go to trial in the U.S., most defendants who went to trial were found guilty. In other words, their verdicts were not so indeterminate. For a defense of jury trials and jury duty as an important site of civic education and democratic deliberation in the American context, despite these data, see Chakravarti, *Radical Enfranchisement*.

theater in that it is a language of closure.[29] While charges may be more or less severe, their scope is neatly defined, and verdicts of innocence or guilt as to those charges do not come in degrees.[30] To be a subject of law, further, is to fit into a rigid identity category, whereas in theatrical performance, categories of identity can be stretched or even re-figured. By contrast to the language of closure that defines legal categories, explains Shoshana Felman, the language of literature is that "of infinitude," a language that "encapsulates not closure, but precisely what in a given legal case refuses to be closed and cannot be closed."[31] Works of political theater like *La Ville Parjure* combine the elements of embodiment and performance that Burns and others applaud as democratic features of the legal trial with the courage "of bottomlessness" Felman appreciates in the language of literature. In doing so, they locate audience members in a public world without thereby exacting from them a determination "in a strong sense," to recall Burns, of the nature of their community. Political theater – with the productions of the Théâtre du Soleil being exemplary in this regard – remains open to the unexpected and unpredictable. For Cixous, that openness allows for difference to appear politically, that is, to inform our visions of justice by re-constituting the meaning of categories of identity and of harm, rather than adhering to a legal script that has

[29] Burns, *A Theory of the Trial,* 127. For Burns, who admittedly is writing at the very inception of what would come to be known as "Law and Literature," The Received View of the trial understands it as a "necessary institutional device for actualizing the Rule of Law in situates where there are disputes of fact. The trial allows punishments to be imposed or civil wrongs to be righted only after a careful factual analysis of what actually occurred, *specifically structured for the application of an established legal rule to the exclusion of other possible norms.*" Burns, *A Theory of the Trial,* 11.

[30] A hung jury is also a possible outcome. The practical reality, however, is that jurors are either insufficiently aware of this option or unprepared for the task of 'holding out' amidst a jury of peers who have deliberated and decided to either convict or acquit. See Chakravarti, *Radical Enfranchisement,* 8-9, 17, 39-60.

[31] Shoshana Felman, *The Juridical Unconscious: Trials and Traumas in the Twentieth Century* (Cambridge, MA: Harvard University Press, 2002), 8.

defined them in advance. The kind of public brought together to judge in the theater differs from the public of the court of law, the more democratic interpretation of which was described above.

When we go to the theater, explains Cixous, we "operate a displacement, we disrupt our habits," going there is "act of affirmation, a gesture of solidarity with others" by which we "go – or we come – to see," and more importantly, "to see ourselves not see."[32] Freed from legalistic categories of thought, theater as a place that is a non-place enables us to confront questions of justice without denying the potential of our own complicity with what we abhor. Justice and injustice can be judged outside of the individualist confines that circumscribe verdicts of guilt or innocence in the court of law, such as the *mens rea* requirement. Theater, for Cixous, is "the place of crime." In it we can confront "our cruel daily enigmas" and at the same time "the existence of death drives" within us.[33] For Cixous, cruel behaviors and wishes do not make us inhuman, but rather, are integral to our humanity. "Everything is gut-wrenching and vexation," remarks Night, in *La Ville Parjure,* "and that's normal" (172). Psychoanalysis – a school of thought from which Cixous draws heavily throughout her career – shows how unknowing, complicity, and transgression lie at the heart of our condition as subjects of freedom and desire.[34] Our daily denial and repression of these facts about ourselves only renders us hypocrites incapable of hearing what is actually being asked of us in the cries of those like the Furies and the betrayed, whose "maternal war cry" (24) wants to see "justice come about justly" (202), for once.

---

[32] Cixous, *Politics, Ethics, Performance,* 117. My translation.
[33] Hélène Cixous, *The Hélène Cixous Reader,* ed. Susan Sellers (London, UK: Routledge, 1994), xxi.
[34] Two noteworthy feminist psychoanalytic accounts of freedom are Renata Salecl, *The Spoils of Freedom: Psychoanalysis and Feminism after the Fall of Socialism* (London, UK: Routledge, 1994), and Jill Gentile and Michael Macrone, *Feminine Law: Freud, Free Speech, and the Voice of Desire* (New York: Karnac Books, 2016).

If the public assembled to judge in the theater requires us to think beyond the legalistic and individual categories of law, it does not, however, absolve us from individual reckoning. For the psychoanalytically-inclined Cixous, the "cruel daily enigmas" of which we daily partake – the motives and desires of which we may be unconscious – are intimately tied to the ways that legal and political institutions perpetuate injustice at the structural level. What might appear to be an unbridgeable chasm between legal and psychoanalytic understandings of the individual is actually a productive tension – one that tempers the perceived psychoanalytic tendency toward determinism, on the one hand, and the legalist tendency toward absolutism in matters of free will, on the other. This tension is deftly illustrated in Scene XII of *La Ville Parjure*, which I read as a critique of the legal fiction of the individual who is wholly transparent to herself. The distinction between intentional and unintentional harm upon which this fiction rests turned out to be of critical importance in attempts to determine the responsibility that could properly be imparted to the individuals that stood trial in France for the contaminated blood affair. It is to Cixous' critical treatment of that distinction in the play that I now turn.

Night, mother of the Furies in Greek myth, presides over the alternative trial set in the cemetery of which Aeschylus is guardian. "Stars, at your posts, pour onto this arena the serene lights of eternity," she begins. "Tonight, we will inaugurate unheard of possibilities" (113). She hands things over to Aeschylus, who along with the Chorus stands on stage with the Mother, the Furies, the state representatives, and their lawyers. "I take the mic," replies Aeschylus, "and I hand it over immediately to the mother" (113). After a bit of stage fright, the Mother finds her voice with the help of the Furies, addressing herself to the two nameless accused doctors, X1 and X2, directly.

Finally, we meet, and on my land!

You have forced us to quit the country
And to bring you here.
All that I ask is: one word.
I want this word absolutely.
A single word, but an all-powerful word,
The one that has the power to stop murder.
[…]
Sorry. [*Pardon.*]
This is the word that I want to hear
Coming from those lips there and those lips over there [gesturing] (114).

In the exchange that follows, the Furies trip the doctors and their lawyers up by making a mockery of the very distinctions between knowing and unknowing action upon which their defense rests.

If they were to say the word sorry, the Mother states, "misfortune" would end, "both camps," victims and accused, "could, of common accord/ step out of the hell/ they've been boiling in for years" (115). What appears to be a rather modest request for an apology strikes X1 and X2's lawyers, M. Brackman and M. Marguerre, as a perilous threat.[35] They respond that they will never "relinquish" that word, the plea for which is but a piece of "bait," part of the Mother's "diabolical ruse," a "woman's trap" to get them to admit to criminal actions, and to suffer "condemnation" and "execution" (115-116). The Furies' critique of legalistic categories of adjudication is here explicitly feminized. The lawyer's stubborn response, which might lead the Furies to despair, instead excites them. This trial is taking place in their land.

Well, here's the kind of man I need!
You, defender, never cede
Since you would deprive me the exercise of my role.

[35] While "M. Brackmann" is the name of a fictional lawyer in Cixous' play, this last name would have resonated with those in the play's audience familiar with hemophilia and its treatment. Dr. Hans Hermann Brackmann was (and continues to be) the medical director for the German Institute for Experimental Hematology and Blood Transfusion at the University of Bonn, also known as the Bonn Hemophilia Center. Under Dr. Hans Egli and Brackmann's direction, the center became known for its practice of infusing hemophiliacs with copious amounts of Factor VIII (clotting factor), to the concern of many medical professionals at the time. See Starr, *Blood: An Epic History,* 241-245.

Be stubborn, never file your claws.
……..
That word, don't you say it
Since, if you did, you would abolish
In one breath the order of things.
On the other hand, if you could say the word "crime"
I would be delighted, I have need of it for the victims (116).

Upon hearing the word 'crime', the defendants and their lawyers are scandalized. "Crime? Who speaks of crime?," retorts X2, "until now we said homicide!/ Did I want to kill? Did he want to kill ?!" Who could say that these men wanted to kill, adds M. Brackmann, and not be lying (117)? Conscious intent – more precisely, the lack thereof – forms the basis of their defense. Having learned their lessons at Athens, the Furies see clearly how the question of an individual's conscious intent distorts what is actually at issue, for the Mother, in the trial at hand. Just as Orestes cowered behind Apollo in the *Eumenides* in order to evade responsibility for his act, the defendants and their lawyers cower behind the balustrade of conscious, malicious intent.

The Furies' response reveals the plain absurdity of these distinctions in the case, which is not being tried in a criminal court of law, but in a makeshift cemetery of the dead and dispossessed. Here, the question is not whether X1 and X2 consciously wanted to poison hemophiliacs by allowing contaminated blood products to remain in circulation, but whether they ought to have been aware of the risks of contamination associated with blood products in the 1980s and taken due measures to ensure their recall from the national supply. "Wanted-to-kill [*voulutuer*], here's another word!" Fine, the Furies continue,

I'll withdraw 'crime'. But I'll keep to-kill [*tué*].
So, you did kill
Even if you did not wanted-to-kill [*voulutué*].
And in what sense you killed, I will tell you:
You did nothing to prevent our deaths.
……
Yes. And not killing [*ne pas tuer*] is not not killing [*ce n'est pas ne pas tuer*],

Not killing [*ne pas tuer*] is to do everything to not kill [*pour ne pas tuer*].
Did you do everything to not kill?
No. Did you want to not kill [*voulu ne pas tuer*]? (117)

This comedy of technicalities and grammatical trickery, we are to understand, springs less from the Furies and more from the accused's defensive posture towards the Mother's simple request for an apology—this is, to quote them, the "order of things" (116) in the ideology of legalism.

They deny having had any intentions to kill (*mens rea*), but further, imply that it would be unreasonable to expect them to have known about the risks of death associated with their role in the distribution of blood products. In other words, they deny that their actions meet the standards for criminal negligence. Along with the category of liability, explains legal scholar Anne C. Dailey, negligence is an exception "to the general [legal] rule that criminal liability requires moral culpability."[36] In cases of negligence, courts invoke the reasonable person standard. Otherwise known as the standard of social reasonableness, it is central to tort law in the liberal legal framework and has been a longstanding subject of feminist critique.[37] It is also the standard to which the accused in *La Ville Parjure,* much like the doctors on trial in the French contaminated blood affair in 1992, cling.

The reasonable person standard makes up for the fact that the law, try as it may, does not have access to individuals' subjective states of mind. "Any workable system of law," Dailey explains, "requires the legal fiction that people consciously intend what they say and do," but given

[36] Anne C. Dailey, *Law and the Unconscious: A Psychoanalytic Perspective* (New Haven, CT: Yale University Press, 2017), 29.
[37] Catherine A. Mackinnon, *Towards a Feminist Theory of the State* (Cambridge, MA: Harvard University Press, 1989), 180-183. See also Kim Lane Schleppele, "The Reasonable Woman." *The Responsive Community* 1, no. 4 (1991): 36-47. For an overview of developments in feminist legal theory, see Nancy E. Dowd and Michelle S. Jacobs, Eds., *Feminist Legal Theory: An Anti-Essentialist Reader* (New York, NY: New York University Press, 2003).

the absence of direct, unmediated access to individuals' mental states, the law turns to the reasonable person standard in order to judge.[38] The defendants in *La Ville Parjure* claim that their distribution of blood products does not meet either of these legal standards for criminality. "In the first place," says X2, "there is no blood on our hands./ In the second, the fault is not ours. Besides, the fault is no one's, there/ was no fault. There was only natural homicide. Without/ any will. That's life. That's science. That's the job. That's/ the accident" (118). What happened to the hundreds of hemophiliac and other lives lost to contaminated blood products, they claim, may have been a tragic misfortune, but it was not an injustice for which they may be held responsible.

The distinction between a misfortune and in injustice however, reminds Shklar, frequently rests on "our willingness and our capacity to act or not to act" on behalf of victims, rather than on objective criteria.[39] It is to this willingness and capacity, and not some hidden kernel of truth residing in an individual's consciousness, that the Furies' and Mother's claims are addressed. The defendants are doubling down on the very categories of understanding that the Mother and Furies take to task. If the reasonable person standard is supposed to inject some measure of objectivity into the judgment of individuals' subjective states, here, it merely re-doubles the subjective position of the medical professionals, for whom "accidents" are just a part of the "job." By insisting on individuals' opacity to themselves, the psychoanalytic perspective that informs Cixous' understanding of theater as "the place of crime" challenges this legalistic understanding of responsibility.

Indeed, Dailey explains how in such cases, the "law's failure to take human subjectivity seriously," as seemingly irrational and opaque as the latter may be, "poses grave risks for a liberal

[38] Dailey, *Law and the Unconscious,* 2-3.
[39] Shklar, *The Faces of Injustice*, 2.

system of justice committed to just treatment and fair outcomes."[40] To assume as the court of law would that, had the defendants known about the risk, they would have acted differently, is to deny the host of psychic mechanisms by which individuals repress and obscure knowledge for a variety of often unconscious reasons. "Law's denial" of this fact, for Dailey, "can have punitive, even disastrous consequences" for people that are "swept up into [its] machinery."[41] If in the court of law we 'swear to tell the truth, the whole truth, and nothing but the truth,' the psychoanalytic critic reminds us that "in a court of law, the truth is precisely what we will not say."[42] Law's language of closure, coupled with its presumption of rationality, render certain areas of human experience inadmissible to its chambers. Cixous' psychoanalytic perspective on theater as the place of crime, by contrast, creates a scene of address in which experiences of injustice that exceed legalistic categories can be given public voice.

If in the court of law the presumption of innocence is paramount to ensuring justice, the presumption of guilt achieves that end in the theater, the place of crime. Unlike when we read a novel, or the news, or appear before a trial jury, when we go to the theater we are confronted with our crimes in a way where they both "accuse us and at the same time […] forgive us," explains Cixous. As an indeterminate space, theater helps us to experience forms of reckoning with injustice that do not find adequate expression in the categories of thought handed down to us by the institutions of law.[43] Theater becomes the "scene of the crime," she explains, because when we attend the theater we are in the *audience,* "we are not *in* the scene […] not on stage." Perspectival

[40] Dailey, *Law and the Unconscious,* 3.
[41] Dailey, *Law and the Unconscious,* 3-4.
[42] Jacques Lacan, paraphrased in Maria Aristodemou, *Law, Psychoanalysis, Society: Taking the Unconscious Seriously* (New York, NY: Routledge, 2014), book jacket.
[43] Cixous, "The Place of Crime," 154.

distance – "we come to see" – couples with the immediacy and intimacy of an other-worldly scene that confronts us; seated in the audience, we are in the dark – we come "to see ourselves not see." Seated as strangers (to the scene and to ourselves) and amongst strangers (our fellow audience members),[44] theater both forces upon us and offers us permission to confront our inherent contradictions, ones that we might otherwise prefer to keep repressed and the ones that the law plainly denies. "What does [theater] give us to see?," asks Cixous; the "primitive passions: adoration, assassination," she answers, and the fact that "we do not only kill what we hate," but "also kill what we love."[45] It allows us, in other words, to confront questions of guilt and complicity in wrongdoing in a kind of public in which no pre-determined, punitive response awaits our admissions.

In the theater, hints and expressions of guilt or responsibility can be subject to a kind of democratic judgment that forgoes the legalistic categories of justice in the criminal court, where a hint of admission – be it a subtle show of remorse or an apology – transforms us in an instant into criminals, our heads ripe for chopping on the block of punitive retribution.[46] In this legalistic atmosphere, to recall Hannah Arendt's report on the trial of Adolf Eichmann, "no communication

[44] Contra Euben, for whom we "enter and leave the theater as strangers," and for whom "any bond created by the experience of the play is a temporarily shared suffering fractured at the play's end," Cixous believes the bond created by theater brings us into a public together that endures long after the curtain's close. Euben, *The Tragedy of Political Theory,* 50.
[45] Cixous, "The Place of Crime," 154.
[46] Cixous is under no illusion that the theater is somehow outside of the space of law *tout court.* Indeed, insofar as *La Ville Parjure* treats of contemporary political events, the Furies do not even dare to name the state's agents whom they find responsible for the blood affair. "Were we to utter his name," remarks a Furie, "right away this man would begin his pursuit, send his lawyers etcetera, the cops would arrive and put a stop to this piece right here and now, for all time" (58). They understand how the threat of litigation prevents even open secrets from being spoken about in a legalistic public, in which individuals are threatened by the possibility of litigation at every turn.

is possible" with the accused, whose "inability to speak" or to show remorse is intimately connected to an "inability to *think,* namely, to think from the standpoint of somebody else."[47] A capacity to think from the standpoint of someone else is necessary for democratic judgment, but it is one that is constricted on all sides by the dynamics of the legal trial. To speak with Maxwell, by showcasing an "ugly picture of the public's and law's complicity in injustice (or incomplete justice)" in the theater, Cixous shows complicity with injustice to be neither an inescapable fact, nor an essential attribute of the individual accused. Instead, complicity with injustice can come to be understood as contingent, a product of collective creation, and thus, as possible of being otherwise.[48]

I have so far argued that the theatrical public is different from that of the public engendered by a trial – a public whose contemporary character is the subject of Chapter 4. The space of theater, unlike the trial, allows us to break free from rigid categories of identity and guilt that otherwise, explains Cixous, hold us captive to "extremely strong identifications" that "found our house," and allow us to live comfortably "in a legalized and general delusion."[49] Theater disrupts the categories of identity through which we and our actions become legible to others, via the state, and which anchor our sense of our own innocence.[50] By confounding boundaries between self and other,

---

[47] Hannah Arendt [1963], *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York, NY: Penguin Books, 2006), 49. For an excellent reading of Arendt's resistance to juridical responses to the problem of Eichmann's crimes against humanity, see Lida Maxwell, "Toward an agonistic understanding of law: Law and politics in Hannah Arendt's *Eichmann in Jerusalem.*" *Contemporary Political Theory* 11, no. 1 (2012): 88-108.

[48] While Cixous' "theatrical trial" does not quite conform to the "lost cause narrative" as Maxwell defines it, it does participate in exposing the complicity of law and of individual persons with injustice as Maxwell suggests narratives of democratic failure do. See Maxwell, *Public Trials,* 5.

[49] Cixous, *Three Steps on the Ladder of Writing,* 9, 51.

[50] On the Lacanian psychoanalytic perspective, we live in a world of delusions because we hold on to fantasies of individual sovereignty and completeness, despite the fact that "the subject per

theater allows boundary-troubling, shameful, and painful experiences of injustice to be heard in a way that might make space for something new. As a kind of public, theater chips away at the delusions that might prevent our ability to think from the perspective of others, which, to speak with Arendt, is in effect to think at all, and to form bonds with others across categories of political difference. In what follows, I show how in the public called forth by Cixous' political theater, difference is allowed its full expression, as strangers seated together open themselves up to the unexpected, unpredictable, and as-yet unknown.

**Theater and the Politics of Difference**

> Universalist emancipation doesn't suppress difference, it only hides it under the guise of privatization. Difference becomes a haunting threat and must be expelled from a public sphere defined by universal sameness.[51]

Cixous' understanding of the role of theater as I have so far elaborated it may at first glance appear to be primarily ethical, rather than political; too steeped in the vicissitudes of the individual psyche to have a bearing on politics. As already intimated, however, Cixous understands and shows the psychic and political registers to be not distinct but co-constitutive. Far from an escape from politics, Cixous' theater practice arose in and out of her decades of political engagement with feminist and de-colonial struggles on both political and psycho-familial terrains. "We repeat the family all the time," Cixous explains years after writing *La Ville Parjure,* "especially at the level

---

se is *empty*" and that our "fantasies arise from the field of the Other." On this perspective, our identifications with stable Others and even with political categories are ultimately ambivalent, and while they provide a temporary solution insofar as they help us "manage," they eventually run up against our "pathetic incompleteness." Aristodemou, *Law, Psychoanalysis, Society,* 76-79.

[51] David Caron, "AIDS/Holocaust: Metaphor and French Universalism." *L'Ésprit Créateur* 45, no. 1 (2005): 63-73, 66.

of the nation."[52] Cixous' psychoanalytic approach to theater-writing is eminently political, and her family history is deeply entwined with the national political injustices that mark the history of 20th century Europe. These histories, which I briefly recount below, propel her towards the theater in general and inform *La Ville Parjure*'s critique of the legalistic approach to adjudicating crimes of contaminated blood.

While she began writing for the theater in the early 1970s, it was not until 1985 that Cixous began her collaboration with Ariane Mnouchkine of the Théâtre du Soleil. In a lecture delivered at the University of Toronto in 1999, 14 years after their initial collaboration, Cixous explained the circumstances of her upbringing, choosing to thus frame her discussion of how she came to, comes, and comes back again to "Enter the Theatre" – the title of her lecture that evening. In her words to the audience, we see how her understanding of the role of theater is intimately tied to her own experiences with political difference. On one hand, she tells them, between 1940 and 1948 Nazism and Vichyism threaten to destroy European liberal democracies. The German family on her mother's side was in concentration camps. On the other, she explains how the very same French democracy – whose liberal principles might stand as a bulwark against fascism and authoritarianism – betrayed its own liberalism through the exercise of colonial rule in Algeria, home to her father's side of the family and her own birthplace in the port city of Oran. At a young age, a political ethic of responsibility awoke within her given this dual heritage.[53] She explains how this lineage informs her approach to writing for the theater,

---

[52] Butler et al., "Disruptive Kinship."

[53] In *Photo de Racines* (1994), she states, « La question éthique du politique, ou de la responsabilité m'a toujours hantée […] Je suis à la fois toujours en alerte (l'alerte a commencé quand j'avais trois ans, dans les rues d'Oran, je m'en souviens clairement), toujours tourmentée par les injustices, les violences, les meurtres réels et symboliques – et en même temps très

> Decades later I am attending the performance of my plays, and what do I see? That they had begun before I wrote, in Oran, Algeria […] [F]eeling myself cast as the keeper of after-lives (I do not say lives – *after-lives*) or Night light. The mission entrusted to me by my father I would define as follows: I must do everything to ensure that I and the people around me are not swept away by oblivion, indifference, I must keep alive the *qui vive* and preserve the dead, the murdered, the captive, the excluded, from the jaws of death […][54]

Internally divided by her family lineage and with an ambivalent relationship to France and the universal aspirations of the Fifth republic, Cixous confronts the complexities of otherness and difference in various guises.[55] As an Algerian Jewish woman coming of age in the 20th century, she lives distinct axes of difference as *inséparabe* [insepARABle], a neologism she coins to capture their entanglement.[56]

Through her heritage, she tells her audience, she comes to understand that 'democracy' is but a word, while 'justice' is something absent from the present. Rather than despair, she turns toward writing for the theater. In this space, she can carry out that political ethic of responsibility entrusted to her by her father, whose occupation as a doctor is important to understanding *La Ville Parjure*. "It is only from without," she explains, "by leaving society (*La Ville Parjure)* […] that we can transgress, interrupt the practice of repetition" that sees injustice and hypocrisy flourish, even in nominally liberal democracies. "Can someone renounce, reproach [these democracies]?,"

---

menacée, trop menacée en vérité par les excès de la réalité. » See Hélène Cixous and Mireille Calle-Gruber, *Hélène Cixous, Photos de Racine* (Paris : Des Femmes, 1994), 15-16.

[54] Hélène Cixous, "Enter the Theatre (in between)." Trans. Brian J Mallet. *Modern Drama* 42, no. 3 (1999): 301-314, 302. Curiously, this is also how Loraux describes the Furies, who are tasked with holding onto memories of evil. Loraux, *The Divided City,* 41-2.

[55] When she attends as a young girl a majority boys school in Algeria, her gender and proximity to whiteness trouble her sense of belonging. When the outbreak of the Algerian war of independence in 1954 prompt her to leave the country in 1955, repatriating to begin her studies in France, not her gender but her Jewishness and "Algériance," as she puts it, situate her in a precarious position with respect to national belonging. Cixous*, Photos de Racines,* 195-207.

[56] Hélène Cixous, *Les Rêveries d'une femme sauvage: scènes primitives* (Paris : Éditions Galilée, 2000).

she asks, "Who? In what circumstances? This is a question which I ask only within the space of the Theatre." Cixous turns to the theater, and to tragedy in particular,[57] to keep the memory of the excluded alive, and with it, to enable her audience to exercise "the ephemeral right to hear those who are deprived of speech in the City speak."[58] Put simply, political theater creates the conditions for a public in which the voices of the excluded, like the feminized and the colonized, can be heard on their own terms.

These are voices that the 'City' (in *La Ville Parjure)* or nation (in the play's French context), circumscribes by means of a grammar of difference that has always already decided that this difference can be reconciled within its own universalist terms. "For there to be a universalism," explains David Caron, "conceived of as modern and progressive, there must always be, concurrently, one or several particularisms defined as archaic, tribal, and regressive." In contemporary France, Caron suggests, "difference becomes a haunting threat [that] must be expelled from a public sphere defined by universal sameness," a fact exposed by the feminist and anti-racist movements of the latter half of the twentieth century.[59] It was from within these movements that both Cixous the writer and Mnouchkine the theatrical director emerged.[60]

---

[57] Shakespeare and Aeschylus in particular feature prominently in her writings, lectures, and as characters in her plays. Both authors are made explicit reference to in *La Ville Parjure,* as well.
[58] Cixous, "Enter the Theatre (in between)," 303-304.
[59] Caron, "AIDS/Holocaust," 65-66.
[60] Cixous began her venture into theater writing for Éditions des Femmes, the French feminist publishing house founded in 1974 by a collective of women who made up the "Psychanalyse et Politique," or "Psych et Po," group that was active in intellectual and movement circles during the early years of the MLF [Women's Liberation Movement]. For a riveting study of the emergence of Éditions des Femmes onto the publishing milieu, and in particular, for an account of the critiques leveled against the "Psych et Po" faction of the broader egalitarian movement for women's rights, see Jennifer L. Sweatman, *The Risky Business of French Feminism: Publishing, Politics, and Artistry* (London, UK: Lexington Books, 2014). Cixous has published 22 books with the house between 1975-2004. While Cixous' formal relationship with the Théâtre du Soleil

When Cixous translated Aeschylus' *Eumenides* for Mnouchkine in 1992, the latter's theater troupe had already since 1990 been on the road performing Greek tragedies (including Euripides' *Iphigenia at Aulis* and Aeschylus' *Agamemnon* and *Choepheroi*) to international acclaim. Only a year after Mnouchkine's troupe toured with the *Eumenides*, the two got to work on *La Ville Parjure*. For Mnouchkine, it constituted "the logical sequel to [their] work with tragedies by Euripides and Aeschylus."[61] Cixous' account of the play's origins is a little different. She had been at work for a few months already with Mnouchkine on a play about the fall of the Berlin wall, she explains, when one day her phone rang and "a meteor fell" (9). It was Mnouchkine. Their artistic direction changed course: they were going to treat of the French blood affair – a tragedy close to home, and a subject matter that Cixous was initially hesitant to take on. "The theme of contamination had already been 'contaminating' all circles of society," she explained. She was tired of it. But this tragedy's portrayal as an "accident" struck a chord, as if to remind her of the "mission" entrusted to her by her father that she carries out in the theater. "Does not the theater have for its engine and *raison d'être* the mission of a watchman?," she asks, "Wasn't it invented precisely to interrogate the "accident", to unlock its secrets?" Vigilance is exhausting, she avows, but such is the call of writing political theater.[62]

As with most of Théâtre du Soleil's productions, *La Ville Parjure* was staged at La Cartoucherie. This is the troupe's sole venue, which it began squatting in 1970.[63] It is an

---

began only in 1985, she and Mnouchkine had met years earlier in the late 1960s when both were active participants in the MLF and in other progressive organizations.

[61] Julie Street. "Queen Ariane Triumphs at Tragedy." *The European.* June 10, 1994.

[62] Cixous, *La Ville Parjure*, 10. My translations.

[63] Located at the eastern edges of Paris in the politically autonomous commune of Montreuil, La Cartoucherie find its home in the old munitions works that fortified the city of old, nearby to the Château de Vincennes. In the 1970s and 80s, Montreuil became something of a refuge for artists and creatives, as many of its buildings were unoccupied or otherwise affordable. To this day the

experimental theater group that practices a radical democratic ethos, with actors, crewmembers, and directors collaborating in creations that dissolve the hierarchical understanding of genius as emanating from writers and directors alone. [64] "People who buy a ticket to the Théâtre du Soleil," explains Andrew Dickson, "don't simply get a show: they are absorbed into a dramatic experience whose every detail, from the *navette* that picks them up from the Métro to the meal they eat beforehand, has been carefully, almost ritualistically planned."[65] On the outskirts of Paris, surrounded by the Bois de Vincennes forest, La Cartoucherie is a liminal space that de-familiarizes audiences as they enter into its world.

In line with the theater's democratic ethos, audience members are invited to come early to dine, but more importantly, to be welcomed and immersed into the world of the theater.

municipality remains an important hub for minoritarian art and the Théâtre du Soleil is part of this heritage.

[64] For an account of the theatre's radical democratic roots, see Laura Capelle, "Ariane Mnouchkine: Half a Century Building Utopia." *The New York Times.* May 14, 2020, https://www.nytimes.com/2020/05/14/theater/ariane-mnouchkine-archive.html. See also Adrian Kiernander, *Ariane Mnouchkine and the Théâtre du Soleil* (Cambridge, UK: Cambdrige University Press, 1993).

[65] Andrew Dickson, "Ariane Mnouchkine and the Théâtre du Soleil: a life in theatre." *The Guardian,* August 10, 2012, https://www.theguardian.com/culture/2012/aug/10/ariane-mnouchkine-life-in-theatre.

Figure 1. Author Image, La Cartoucherie Performance Venue. 25 September 2019.

La Cartoucherie's geographical location and the egalitarianism of Mnouchkine's Théâtre du Soleil are particularly conducive to a kind of writing that, Cixous admits, becomes possible for her only in the theater. In her theater-writing, explains Susan Sellers, Cixous becomes capable of truly producing "a writing of the other."[66] The political differences that are embodied in her person, and the "others" whose voices she takes as her task to preserve "from oblivion" and let speak, come properly to life in her theater-writing. Here I agree with Sofia Varino, who has argued that the understanding of "feminine difference" that, fairly or unfairly, has hampered Cixous' reception in Anglophone circles is better grasped through the more capacious lens of "otherness," to which I now turn.[67]

This is not to say that Cixous abandons "feminine difference" in her theater-writing. Rather, it is to understand how this space allows her to represent feminine difference politically,

[66] Sellers, *Cixous Reader*, xxxi.
[67] Sofia Varino, "Liminal politics: Performing feminine difference with Hélène Cixous," *European Journal of Women's Studies* 25, no. 3 (2018): 293-309.

as a kind of difference "embedded in collective global histories whose narratives collide and diverge."[68] Varino suggests that "in treating femininity as a repository of tropes of embodied alterity and otherness," Cixous exceeds the strictures of binary sexual difference that have been read into her concept of *écriture féminine*. Her theater writing in particular, writes Varino, "formulates a liminal politics whereby the marginalized and excluded can function as an antagonistic force opposing colonialist and patriarchal logocentrism."[69] Varino's political reading of feminine difference has not been extended to interpretations of *La Ville Parjure*.[70]

Scholarship on the piece to-date has perhaps unsurprisingly centered on the question of justice that is central to both *La Ville Parjure* and the *Oresteia.* This literature, however, has by-and-large been insufficiently attentive to the dynamics of difference as they unfold in the play. Scholars have been quick to draw normative conclusions about its account of justice without due consideration of how justice and vengeance appear alongside and are defined through feminine difference in the text. For Susan Ayres, the play opens up non-prosecution alternatives to collective violence, such as in cases of governments' fatal inactions in the context of the AIDS crisis, or in post-Apartheid South Africa. "The play," writes Ayres, "provides a model of forgiveness and a forum for public catharsis" that counter-acts what might otherwise attend the "failure to achieve

[68] Varino, "Liminal Politics," 295.
[69] Varino, "Liminal politics," 295.
[70] Indeed, the play sits at a curious juncture in the writer's career, overlapping with what has been termed the "postcolonial turn" in her writing, but consistently overlooked as belonging to it. See Samuel Sami Everett, "The Algerian Works of Hélène Cixous: at the Triple Intersection of European, North African, and Religious Nationalisms," *International Journal of Politics, Culture, and Society* 30, no. 2 (2017): 201-217.

justice through conventional [legal] means," such as, per the epigraph to Ayres' piece, "self-help, vigilante justice, and lynch law."[71]

While I agree with Ayres that the play "does not depict simple revenge," neither does its alternative trial depict a "ceremony of confession and forgiveness." Ayres' interpretation of the play in this way relies heavily on Aristotle's understanding of the role tragedy. For Aristotle, the role of tragedy was to "arouse pity and fear as an act of catharsis."[72] Ayers, too, sees tragedy as a kind of therapeutic solution, through which the act of truth-telling on stage allows one to get past and work through a harm done off-stage. This is an ethical-therapeutic approach to tragedy that, to my understanding, the psychoanalytically-inclined Cixous would reject. The desire for closure, conclusion, and catharsis that Aristotelian readings of tragedy are invested in miss tragedy's political dimension. As Simon Goldhill explains of the drama festivals in ancient Greece, the theater is an institution in which "civic identity [is] displayed, defined, explored, [and] *contested*."[73] Tragic performance takes the structure of an open-ended address: it allows us to evaluate the ability of available categories of thought and of judgment to adequately represent our collective, political identities and experiences.

For Irma Erlingsdóttir, too, the play serves as an instance to reflect on the role of forgiveness in matters of justice, and in particular, on the questions of which crimes can be considered 'forgivable' in the first place. Erlingsdóttir rightly, in my view, contests Ayres' reading, in that she does not see "Cixous' play as an unequivocal stance on restorative justice in general." What Ayres misses, she explains, is the "unpredictable" element of forgiveness, which never

---

[71] Susan Ayres, "Hélène Cixous's *The Perjured City:* Nonprosecution Alternatives to Collective Violence." *New York City Law Review* 9, no. 1 (2005): 1-30, 1.
[72] Ayres, "Hélène Cixous's *The Perjured City,*" 2, 14, 12.
[73] Simon Goldhill, "The audience of Athenian tragedy," 55. My emphasis.

carries "a guaranteed outcome […] no sealing of wounds, no wiping of the slate clean."[74] Erlingsdóttir insists that "forgiveness is far too existential to be made into a political ritual," and that given the "precariousness of such a political condition, the most important thing for Cixous is to be responsible to memory."[75] Where Ayres is quick to draw out the implications for justice in general in her interpretation of *La Ville Parjure,* Erlingsdóttir is perhaps too reticent to consider the implications of the play's political context for its gendered representations of justice and of vengeance.

Readers have insufficiently attended to the problematics of political difference that circumscribe the relationship between gender, vengeance, and justice as they are figured in the play, and as they play out in the political and ideological context surrounding the blood affair. In what follows, I show how the legal spectacle of the blood affair raised profound questions as to what a truly democratic form of justice ought to be, and of who could rightly be seen as demanding it. To treat the French blood affair outside of the broader political context of the AIDS crisis in France is to miss how Cixous' play enacts a liminal politics that challenges the affair's narrow understanding as "the tragedy of hemophiliacs," to recall Casteret's phrase, in the first place. Absent a critical interrogation of how the plight of hemophiliacs became "*la une*" in the French media, we overlook how the dispossessed that take the stage in *La Ville Parjure* were defined in opposition to that innocent group, such that their calls for justice could be dismissed as vengeful. The French blood affair was a singular event and, as the play makes clear, at the same time a profoundly historical one – the specter of genocide evoked by critics of the government's failure

[74] Irma Erlingsdóttir, "The Politics of Justice and the French Blood Affair in Hélène Cixous's *The Perjured City.*" *Paragraph* 38, no. 3 (2015): 369-385, 379, 381.
[75] Erlingsdóttir, "The Politics of Justice," 382.

to contain the spread of AIDS is intimately tied to the crooked history of French complicity with Nazi Occupation.

The crimes of blood that occurred between 1981 and 1995 in France cannot be divorced from a broader symbolic context in which blood "carries histories, centuries […] of poison, of metaphors"[76] that evoke questions of ethnic and moral purity, corruption and contagion, and subsequently, of whose calls for justice can be heard *as* calls for justice rather than revenge. As mentioned, reports of contaminated blood products making their way into the French populace sparked distinctly puritanical anxieties along racial-, sexual-, and class-lines. When news broke that government officials had knowingly allowed HIV-contaminated blood products to remain in circulation during the AIDS crisis, the French public was afraid, but they were also outraged. Some called for the harsher punishment of government officials, others, for a "Nuremberg of AIDS." Amidst the outrage, it seemed that some wanted *blood for blood*; calls for justice were re-cast as insatiable desires for vengeance, products of a "collective hysteria" that, like the cries of the blood-thirsty Furies, the law must contain.

**Trials/Trails of Blood: The Politics of the Contaminated Blood Affair**

> Tout crime, parce qu'il signale la fragilité du loi, est abject […] La corruption […] est la figure socialisée de l'abject.[77]

> TV Anchor: Ludovic is 16 years old, an age at which one has one's whole life before one, but Ludovic does not look at the future like other teenagers. He is one of 1,200 hemophiliacs who needs to regularly change his blood. And today, at age 16, Ludovic is HIV positive. This morning, we will try to understand his thirst for justice, if not for vengeance.[78]

---

[76] Butler et al., "Disruptive Kinship."
[77] Julia Kristeva, *Pouvoir de l'horreur : Essai sur l'abjection* (Paris : Éditions du Seuil, 1980), 12, 23.
[78] Excerpt of a transcript from the program "*7 heures*" on the national public radio station *France Inter*, 22 June 1992. Quoted in Patrick Champagne and Dominique Marchetti [1994], "The

Joëlle put fags on the front lines, and behind us were all the people affected by AIDS.[79]

The previous section served to introduce the reader to the frameworks of psychoanalysis and difference that inform Cixous' approach to theater. I showed how theater, for Cixous, is a political space unlike the court of law. As the place of crime, it eschews the narrow categories of identity, innocence, and rationality that circumscribe what can be said and heard, and by whom, in the language of law. By giving the reader a glimpse of Cixous' family lineage and the materiality of the Théâtre du Soleil's venue, I began to gesture at how feminine difference plays a role in Cixous and Mnouchkine's re-figuration of justice. In this section, I outline the political context in which *La Ville Parjure* is written and performed, before concluding this chapter with another close reading of the play. The historical conjuncture I outline below gives the reader an understanding of the various actors – victims, allies, and accused alike – that were central to the scandalous blood affair. The legal trial itself, writes Douglas Starr, was "a fiasco, little more than an exercise in national breast-beating."[80] Indeed, it occasioned a crisis of trust the likes of which are likely to have been unfathomable to the first hemophiliac claimants that brought civil suit against the National Center for Blood Transfusion (CNTS) on March 21st, 1988.

What began as a civil suit was dragged through the many levels of the French judiciary, eventuating in criminal charges brought against three ministers. If these criminal trials finally brought an end to the legal drama initiated by victims' initial pursuit of compensation, however, they did not settle the broader questions of justice and injustice raised by the affair. These neither

---

Contaminated Blood Scandal: Reframing Medical News" in *Bourdieu and the Journalistic Field,* eds. Rodney Benson and Erik Neveu (Cambridge, UK: Polity, 2005), 113-134, 132.

[79] Leading ACT-UP activists Frédéric Martet and Philippe Mangeot concur on this in a 2011 interview with Michael J. Bosia. Bosia, "*Assassin!,*" 308.

[80] Starr, *Blood: An Epic History,* 333.

were nor could be settled by means of law. While the politicians under public scrutiny appear to have conceded as much, with former prime minister Laurent Fabius going so far as to propose constitutional amendments to the effect that government ministers could be tried by "ordinary justice,"[81] these proposals only further put into question the ability of law to deliver justice in the blood affair.[82] "The real question," wrote professor Olivier Duhamel in *Le Monde,* "is to know whether our democracy is or is not sick, and whether constitutional reform can or cannot heal it."[83] The problem in France was not constitutional, explained Duhamel, but "the total dissolution of ethics, the thirst either for power or for money," a "spirit of submission" that had taken hold in society, and that no constitutional reform could fix.[84] Looking to the penal code "as if it gave expression to the national character"[85] of a people, to invoke Nietzsche, was a category mistake.

The willful negligence, corruption, and moral bankruptcy that the contaminated blood affair revealed to be pervasive on the part of French officials in government and medicine profoundly shook the public. That so precious a commodity as human blood could not be sheltered from the "revalorization of business" of what Michael J. Bosia calls France's "neoliberal turn" was horrid enough;[86] that the death of hundreds of young children was to come down to a question of monetary compensation only drove the state's bankruptcy in matters of ethics home. If the Dreyfus Affair exposed deep fissures in French society at the end of the 19th century, the blood affair was

---

[81] And not, as was the case, only by the French High Court and only for matters of treason.
[82] A timeline of the affair published in the left-of-center *Libération,* which ran a special issue on the topic of blood in May of 1993, dates Fabius' proposal of this measure to November 1st of 1992, that is, a week after Garretta, Roux, and Allain were found guilty.
[83] Olivier Duhamel in *Le Monde,* quoted in Bettati, *Responsables et coupables,* 197.
[84] Duhamel quoted in Bettati, *Responsables et coupables,* 197.
[85] Friedrich Nietzsche [1882], *The Gay Science.* ed. Bernard Williams. trans. Josefine Nauckhoff and Adrian del Caro (Cambridge, UK: Cambridge University Press, 2001), 58.
[86] Frédéric Martet of ACT-UP Paris, quoted in Bosia, "*Assassin!*," 304.

to provoke a similar political crisis at the close of the 20th.[87] Indeed, in *J'accuse: médecins et politique* (1992), Joëlle Bouchet, the mother who was active in ACT-UP and whose hemophiliac son Ludovic's story, among that of others, her book seeks to made known, evokes the Dreyfus Affair in no uncertain terms. Émile Zola sought to expose elites' complicity with injustice and failures on the part of the legal and media establishments to defend truth, and thus justice, Bouchet saw her mission as part of this lineage.[88] She "knew that someone was responsible for her son's illness," explains Bosia, who interviewed her in 2005, was "resolved to find out who it was," and " refused what she and others came to call "blood money," or "the price of silence.""[89] Bouchet is without a doubt the inspiration for the Mother in *La Ville Parjure,* who upon being offered monetary compensation by lawyers for the loss of her sons says that she is "horrified" that they would want to "transfuse her with their liquid," which is gold (37).[90]

The broader struggle occasioned by the contaminated blood affair – one against a state of affairs in which some lives are deemed "expendable"[91] and government officials are sheltered from accountability – raged on in France. The affair was only a symptom of broader socio-political crises facing French society, occasioning a "battle over principles" that brought together

---

[87] Mittérand himself invoked the affair when faced with TV cameras, writes Bettati, 189.
[88] On the relationship between truth and truth-telling to democratic justice in Zola's writings on the Dreyfus Affair, see Maxwell, *Public Trials*.
[89] Bosia, "*Assassin!,*" 301.
[90] When former CNTS director Michel Garretta's Jaguar was bombed in the middle of the night of November 1st 1989 by members of a group calling itself "Honor of France," they left a message that referred to him as a "criminal and trafficker of red gold," referring of course to blood. On this incident see Bettati, *Responsables et coupables,* 113; Starr, *Blood: An Epic History,* 330.
[91] This language from Jean Péron-Garavonoff, founder of the *Association des polytransfusés* (ADP), which was created in 1987 upon the realization by many hemophiliacs that the *Association française des hémophiles* (AFH) was too entangled with the state to be a trusted voice for victims. Quoted in Starr, *Blood: An Epic History,* 320. On the schism between the ADP and AFH, see Bosia, "*Assassin!*," 299-301.

"questions of globalization, social welfare, and neoliberal reform," explains Bosia.[92] It further raised questions as to whose voices could be heard in and as public, in a transformed media environment that was increasingly responsive to the ideological tendencies of the far-right in France. "Not a single organ" of this body politic's "health," the Mother in *La Ville Parjure* states upon disavowing the City, "has been spared of rot, small or large" (19). Even the French medical system, which so prided itself for its principled non-remuneration for blood and looked with disdain on countries like the U.S. that relied more heavily on paid blood and plasma donors, was not immune from corruption.

The scandal tarried François Mittérand's second term as President of France (1988-1995), leading to the eventual prosecution of his Prime Minister Laurent Fabius (1984-1986) on charges of involuntary homicide in 1999. Between 1991 and 1993, "few stories spent as much time on the covers and front pages of the national press," to the point that the blood affair was "being presented [in the media] as one of the scandals of the century."[93] Despite the relatively small number of people infected with HIV by the distribution of unheated blood products, the affair had lasting political effects.[94] It came to a head in the highly publicized June 1992 trial of doctors Michel Garretta, Jean-Pierre Allain, Robert Netter, and Jacques Roux before the 16th chamber of the Criminal Court. It did not end there, but led to a second trial in 1999, in which Fabius (who still held high office at the time) and former Social Affairs Minister Georgina Dufoix (1984-1986) were charged with and acquitted of manslaughter, while former Health Minister Edmond Hervé (1983-

[92] Bosia, "*Assassin!,*" 291.
[93] Champagne and Marchetti, "The Contaminated Blood Scandal: Reframing Medical News," 126.
[94] The total hemophiliac population at the time is estimated to be 4,000 (the French population, by contrast, around 55 million).

1986) was found guilty but released on time-served. This second trial, explains Bosia, represented a "watershed moment in the mobilization of French AIDS activists."[95] As Cixous wrote her play shortly on the heels of the first, however, I limit the summary that follows to the events leading up to, during, and closely following the 1992 trial, the first hearing of which took place June 22nd, 1992, five years after the initial civil suit was brought forward.[96]

My aim, which is neither to replicate nor to contest the histories written of the affair in recounting these events is two-fold. First, to show how the pursuit of justice through the courts in this case exposed the limits of the law to be able to provide redress for the families of those lost and infected by contaminated blood. Second, to critically interrogate how the claimants in this trial went from being portrayed in 1991 as sympathetic victims to, only a year later in 1992, as petulant children, advocates of lynching whose demands that politicians be held accountable exhibited their tendency to blame others and inability to take responsibility for themselves. In the words of Alain Minc, an intellectual whose opinions were solicited to weigh in on the affair, demands to see politicians criminally charged represented to many in the media an absolute trivialization of the blood affair. Calls for a "Nuremberg of AIDS" were proof that, "so long [French citizens] place a premium on the political, even if the point is to scorn it, [they] will have not yet become adults."[97] Because HIV was a "Media-Friendly Epidemic,"[98] this helped initially in bringing the affair to

---

[95] Bosia, "*Assassin!,*" 291.

[96] My aim is not to provide a definitive history of the blood affair, nor of ACT-UP Paris, as this would be outside the scope of this chapter. Instead, I draw on media coverage of the affair and critical accounts of its unfolding to paint a broad-strokes outline of the contours of debate around the issue in France. The aim is to give the reader a sense of the political and ideological stakes that were brought to light by victims' pursuit of justice through the criminal courts.

[97] Alain Minc in *Le Monde*, quoted in Bettati, *Responsables et coupables,* 191. My translation.

[98] This phrase from Champagne and Marchetti, "The Contaminated Blood Scandal: Reframing Medical News," 113. The authors use this phrase in a section title, but the words refer ultimately to those of a journalist, whom they leave unnamed, but who stated that he "became immediately

light, but it had nefarious impacts on the public perception of claims to justice that eschewed and exceeded the grammar of its legal resolution. For Caroline Bettati, one of the lawyers who brought suit on behalf of victims and their families in the trial, the "case had so shaken [her] convictions, so stirred up [her] anger," that "a sentiment of revolt took root in [her] spirit."[99] Readers of her exhaustive report on the trial, to which I now turn, become privy to a candid account of the frustrating routes that had to be traveled by claimants to even get to trial, and the many obstacles they faced upon getting there.

The obstacles that they would face are succinctly captured in the callous words of Georgina Dufoix, the Minister of Social Affairs and National Solidarity from 1984-5. In the course of the trial, it was established that this window of time was the critical moment at which the government's transparency and speedy action could have prevented the spread of the HIV via blood. This, despite the fact that tort law provisions stipulated that only persons who could prove to have been contaminated by blood products sold between March 21st and October 1st of 1985 could be claimants in the trial.[100] Dufoix's particular role in delaying the recall of contaminated blood products was also to be established in the course of the trial. On June 27th 1985, Professor Ducos of the regional transfusion center in Toulouse warned her in a letter that "AIDS posed a serious

---

interested in AIDS because [he] felt that it was a very 'media-friendly' illness." Presumably, his assessment has to do with the well-documented ease with which stories about sex, drugs, and death garner a broad and eager readership. He is quoted in Champagne and Marchetti, "The Contaminated Blood Scandal: Reframing Medical News,"123.

[99] Bettati, *Responsables et coupables,* 12-13. My translation.

[100] This rather restrictive window was due to stipulations in tort law and related to the date the initial suit was brought forward. As a result of these stipulations, the majority of claimants were Parisians (who dealt directly with the CNTS and not with other regional transfusion centers) and even some Parisians who could not find proof of purchase were excluded. It is certain, writes Bettati, that "certain responsible people passed through the cracks because of the prescriptive rules of tort law." Bettati, *Responsables et coupables,* 92.

risk for patients receiving blood transfusions," requesting they arrange a meeting. His letter received no response.[101] While the specifics of these notices were only to be made precise at trial in 1992, it had already been clear to many that the Minister either was or ought to have been aware of the alarm bells doctors on both sides of the Atlantic had been sounding since early 1983.[102]

These facts would fly in the face of Dufoix's televised remarks, which have since been summarized in a phrase that is to this day snidely recalled in France: "responsable, mais pas coupable" [responsible, but not guilty]. Dufoix's legalistic technicality, based as it was in the real distinction between civil liability and criminal guilt, struck a cold-hearted tone to the ears of a French public attuned to the pain and suffering wrought by AIDS. When she uttered this phrase in July of 1991, it had been four years since Anne-Marie Casteret broke the news that government officials had knowingly allowed HIV-contaminated blood products to remain in circulation amongst the population of hemophiliacs and polytransfused,[103] but only three months since the public had definitive proof. It had also been two years since the formation of the Paris chapter of ACT-UP and less than a month since their first high-profile intervention in the blood affair. Public scrutiny of government officials' implication in the affair was increasing. On June 24th, 1991 ACT-UP organized a protest on the steps of the CNTS at Saint-Antoine hospital in Paris to demand the implementation of a new screening test that would allow the virus to be detected in blood only a

[101] Other court documents showed that Dufoix had received a note on July 12th of the same year informing her that all Factor VIII coagulants were contaminated. Bettati, *Responsables et coupables,* 60-61.
[102] International congresses of medical experts and hemophiliac associations were to take place in May of 1983, and as of the start of 1984, all foreign commercial firms had ceased to circulated un-heated blood products. The heating technologies, initially developed in the U.S., were known to be effective in neutralizing and inactivating any presence of the HIV virus in blood products.
[103] One of Bettati's clients was one of the first hemophiliacs to have suspected that their contamination by HIV-AIDS was no accident. Bettati, *Responables et coupables,* 12.

few days after contamination. They also called on Fabius, Hervé, and Dufoix to be removed from their government posts, and to accept responsibility for the blood of hemophiliacs and transfused that was on their hands.[104] ACT-UP activists and their allies set up a permanent encampment outside of the courtroom that lasted throughout the trial and attracted media attention.

They held up placards with images of the faces of Dufoix, Hervè, and Fabius and the words: "Responables/Coupables;" they unfurled a banner that read "*Sida-l'État meurtrier*" [AIDS-State murderer] and chanted that slogan, too; another chant went "*Les politiques savaient – Ils n'ont rien dit – Ils n'on rien faits*" [The politicians knew – they said nothing – they did nothing]. When Fabius was elected as head of the Social Party (PS) in January of 1992, ACT-UP organized a "zap" outside the House of Chemistry, near the National Assembly. They chanted "*Sida: le PS a la mémoire courte! Des transfusés sont mort; Fabius sévit encore*" [AIDS: the PS has a short memory! Transfused lives are gone; Fabius rages on].[105] "*Fabius! Assassin*!" was perhaps the most direct of the chants, emblematic of the adversarial style that the Paris chapter had adopted from its New York City counterpart. ACT-UP's self-described lack of nuance as to the responsibility of ministers was an important strategic move. In the first place, it helped to distinguish the group from others like AIDES and ARCAT, and in the second, explain its members, journalists were able to give voice to "a radical point of view that no journalist […] could hold, without going

[104] Pinell et al., *Une épidemie politique,* 250-251.
[105] Pinell et al., *Une épidemie politique,* 252-254. My translations. A note on translation: the word "sévit" in French has multiple meanings. It can be used to mean "exercises activities" (descriptive, value-neutral) or "exercises repression" (descriptive, value-neutral) or "wreaks havoc," where the latter could be used descriptively to refer to an epidemic, for instance, but has normative implications. My choice to translate it as "rages on" tries to capture the second and third meanings, while preserving the rhyming scheme of the original chant.

against the rules of the media game" which require them to respect accused persons right to be presumed innocent.[106]

With help from the media-savvy activist group, then, the affair had attained a good measure of media exposure and visibility, but the public had yet to learn the full details of what transpired at the CNTS in the mid-1980s, which were brought to light in the course of the 1992 trial. The emotional testimonies of victims and their families were gut-wrenching, as seropositive individuals confronted the doctors they had entrusted with their care – "Why didn't you *tell me?*," cried Jean Péron-Garvanoff to his doctor Jean-Pierre Allain – only to be met with denial, each of the accused doctors evading responsibility by passing the buck, citing "loyalty to [their] superiors," or claiming to have acted "to the limits of [their] responsibilities."[107] Even still, of the accused at trial, Bettati recounts, Allain was the most likeable. Unlike Garretta, whose slick hair, business attire, and decision to don the Legion of Honor[108] pin awarded to him by Mittérand in 1989 were vilified in the media, Allain chose to present himself humbly. He looked like a real doctor, wearing boat shoes and sporting unkempt hair, and he acted like one, exhibiting human qualities throughout the trial. Garretta, on the other hand, was never seen entering the courtroom at the *Palais de Justice*, deciding to take advantage of the accused's access to underground passages to the chambers. Allain entered alongside the civil parties, often speaking with them and their lawyers when the chamber took pause. Whether such behavior on his part was genuine or part of a defense strategy, Bettati could not be sure. It did work however to distinguish him from Garretta, who often

[106] Pinell et al., *Une épidemie politique,* 252.
[107] Jean-Pierre Allain and Michel Garretta quoted in Starr, *Blood: An Epic History,* 310, 313.
[108] It was exceptional that he had been awarded this highest order of civil merit, Bettati notes, before having completed 20 years of civil service. She speculates, "Did Garretta feel he needed to be shown as having full support from the main seat of political power?" Bettati, *Responsables et coupables,* 94.

shrugged his shoulders and smirked, exhibiting a level of disdain that "gave the impression of a man that felt himself being hounded by individuals devoid of reason."[109] Garretta's dismissive posture, whether he intended it or not, worked in tandem with media coverage of the radical activism spilling out of the courtroom to contribute to the vilification of victims – both the civil claimants and their allies in ACT-UP alike.

If the families of hemophiliacs that testified at court did not want vengeance, they did want the tribunal to respond to their rage and their grief. The young people contaminated, explains Bettati, testified with dignity about their march toward death; grieving parents voiced neither insults nor hate, but sought only to establish the facts, the truth, to honor the ones they lost. Garretta showed no remorse. In response to their moving testimonies, he said "I am not ashamed. I reaffirm openly that all of the decisions I took, I would have applied them in the same fashion if necessary to my own children, as to myself."[110] It became clear that a vast gulf separated victims and accused, a gulf that had to do with the very meaning of justice. The victims' testimonies, recounts Bettati, were "marked by a profound commitment to justice, not in the sense of a supreme authority capable of bestowing a remedy, but rather as a trustee and custodian of the very foundations of social organization."[111] To speak with Iris Marion Young, the claimants at trial and their allies on the steps of the *Palais de Justice* were resisting the reduction of social justice to distributive justice.[112] It was in this latter capacity that the court of law failed.

To begin, the first civil charges were filed on the grounds of commercial fraud under the consumer protection law of 1905. The question of whether blood and blood-derivatives ought to

[109] Bettati, *Responsables et coupables,* 99. My translation.
[110] Garretta quoted in Bettati, *Responsables et coupables,* 100. My translation.
[111] Bettati, *Responsables et coupables,* 11-12. My translation.
[112] Young, *Justice and the Politics of Difference.*

be treated as a commodities like any other was thus made moot from the outset.[113] That the restricted scope of the initial charges and the number of accused eventually grew into a larger criminal inquiry was not a product of "the public's desire for vengeance,"[114] but revealed the fragile grounds upon which the distinctions between liability and crime rest. In legal custom, this distinction rests on the ability to prove intent and authorship of an act. The political call to have the institutionalized negligence that was made evident at trial – Dufoix's denial that she ever received a letter, Hervé's quibbles as to the date at which he definitiveely knew about the risks associated with blood products – tried as a crime, however, was not about intent.

As was intimated in my analysis of Scene XII above, the affair raised questions about the extent to which medical professionals violated their Hippocratic oath to "do no harm" in the context of emergent financial pressures caused by the explosion of the global profit-driven "blood-services complex."[115] For the French public, as for Cixous, below, the debasement exhibited in the behavior of medical professionals – the Mother in *La Ville Parjure* calls them "wolfs dressed in white" serving the "Hospital-Capital [*Hôpital-Capitale*]" (20) – who acted as agents of the profit-motive was indicative not only of political but also of a profound ethical corruption. To speak with Julia Kristeva, with whose words I chose to begin this section, corruption is the socialized figure of intimate betrayal. It is the structural manifestation of crimes like premeditated murder that strike us as incomprehensible. When victims and their allies fought to bring forward charges of poisoning

[113] Bettati avows that she and her co-counsel Georges Holleaux were widely criticized for this decision, explaining that at the time (1987), this was the sole charge for which they could find any material evidence. Bettati, *Responables et coupables,* 84-87. My translation. She explains that it was the only charge which they felt certain would bring the case to fruition, and further, that the consequences for fraudulent commerce stipulated by this law are unrelenting, which would ensure that the accused be censured.
[114] Bettati, *Responsables et coupables,* 87-88.
[115] This term from Starr, *Blood: An Epic History*.

and involuntary homicide against government ministers, their legal claims sought to bridge the gulf described above, between two competing understandings of justice. The leadership of the French Republic, much like the King of the City that the Mother forswears in the opening scenes of *La Ville Parjure,* showed itself throughout the trial to be ordinary – she calls him "Roi ordinaire" [ordinary King] – and, for that exact reason, all the more horrific. The ordinariness with which decisions to prioritize profit over people took place makes the King in the play, and France's leaders, into "Roi froidi" [chilled King], propped up by the "sinistre loi du froid" [sinister law of cold] and its "bannières d'indifférences" [banners of indifference] (21). The point of pressing criminal charges was not to succumb to the moralizing impulse to think of the actors involved in this affair as monsters, but rather, to challenge the political and structural conditions in which their many actions and inactions could go unchallenged in the first place.

To be sure, the centrality of blood to this political injustice, and of the practices of self-transfusion that led many hemophiliacs to be infected, made the ethical impulse to distinguish innocent victims from monsters difficult to restrain. What Butler has called the "metaphoricity of blood"[116] certainly contributed to the difficulty to contain and constrain this affair's political meanings – a difficulty that led many to dismiss the public's outrage as an instance of collective hysteria. Indeed, this was a very visceral injustice. When Casteret made public in *L'Événement du Jeudi* an official document dated from 1985, it proved definitively that Garetta had known French blood products were likely to be HIV-contaminated. Despite this knowledge, he directed that they be left in circulation so as to, in his words, "get rid of the stock" [*écouler les stocks*]. The decision to "get rid of the stock" of French blood products prioritized calculations of profit over the safety

[116] Butler et al., "Disruptive Kinship."

of people – a nefarious decision, considering how normalized the use of coagulant factors like Factors VIII and IX had become in the homes of hemophiliacs.[117] Adding to the physical and emotional toll of living of HIV was the knowledge that, in the physical if not the legal sense, these individuals had 'poisoned' themselves: in the 1980s, 90% of hemophiliacs' treatment by transfusion were preventative, rather than acute. Bettita underlines, as may already be obvious, that "*if they or their parents would have nursed the smallest fear about the safety of the products they were injecting, they would have evidently immediately ceased their systematic use.*"[118] It is to these harrowing facts – mothers unknowingly infecting their children, doctors infecting their patients – that Dufoix responded she and the other ministers were "responsable, mais pas coupable."

In her words, Cixous and we are reminded of the technicalities that get Orestes off for his matricide: that a sworn oath to Apollo ultimately 'made him do it' is part of his defense-strategy.

---

[117] Until the discovery of transfusion as a treatment for the disease – the cause of which is a deficiency in either the plasma proteins needed for coagulation, notably clotting factors VIII or IX – hemophiliacs largely had a low life expectancy. Their blood disease was misunderstood as a "locomotive disability," as the internal bleeding caused by a fall or injury in hemophiliacs often led to hemorrhaging in the muscles or joints. A certain "normality" was restored for hemophiliacs born after 1970, explains Bettita, as the necessary concentrate for injecting the coagulant factor could be stored in powder form in individual's household refrigerators. It had only to be distilled with water to be administered. Given the relatively small population of hemophiliacs and thus the small number of doctors who specialize in the disease, the primary aim of medical centers that did specialize in its treatment – one of which was run by Jean-Pierre Allain – was to train hemophiliacs (or their guardians) in self-transfusion. "Gradually," explains Bettita, "hemophiliacs treatment by self-transfusion became," for all intents and purposes, "a simple formality, a banal and habitual gesture." In this sense, hemophiliacs and their parents became experts in the treatment of their disease, just like many gay men and women did, albeit for very different reasons. A striking difference between these groups is along the axis of access: hemophiliacs were considered masters of their own treatment, so much so that they were able to easily get a referral from any specialist and themselves order the clotting factors needed for their treatment over the phone. Bettita, *Responables et coupables,* 20.

[118] Bettita, *Responsables et coupables,* 21. Italics in the original.

Like Dufoix, Orestes admits to the murder without conceding that it amounts to a crime – Clytemenstra's death goes unavenged, unaddressed. Athena would like us to believe that the end of democratic justice justifies the means: Orestes' acquittal for matricide. Cixous and her Furies refuse to forget that "women are the ones who pay for the affair," and that in our feminist era, "what comes back to us […] is a duty to truth, to know what is at stake" when a criminal goes free "and not to deny it."[119] What is at stake, after all, in Orestes and Dufoix's refusals to admit and to publicly attest to the criminality of their actions are the very boundaries of what justice is and ought to mean.

The broad-strokes account of the contaminated blood affair I have provided here aims to have given the reader a sense of the context in which the categories of innocence and guilt, and justice and vengeance, were levied to discredit calls for justice that challenged the distributive paradigm of tort law and sought to bring criminal charges forward. When ACT-UP called for a "Nuremberg of AIDS," the group and their allies were accused of harboring a vengeful desire to lynch – they were made to seem like those hounds devoid of reason Garretta seemed to conjure up at trial. In their own words, however, they explain that

> ACT-UP is not calling for a lynching but takes its point of reference in a trial that allowed for the emergence of the concept of "crimes against humanity" in order to demand that, in a democratic society, the history of contaminated blood serves to advance a clear definition of the responsibility of those that govern. It is in refusing to judge the politicians (Fabius, Dufoix, Hervé) that we would be committing a lynching, for we would deliver these condemned doctors to the people's retribution, making of them sacrificial lambs of an offense that largely exceeds them.[120]

[119] Cixous, *Three Steps on the Ladder of Writing,* 32.
[120] ACT-UP, "Pour un Nuremberg du sida" cited in in Pinell et al., *Une épidemie politique,* 256. My translation.

Events like the blood affair show us the limits of the law, with its individualist understanding of guilt and responsibility, in delivering democratic justice in the case of collective injustices for which it may be the case that no lone individual is, or even group of individuals are, guilty. In Cixous' *La Ville Parjure*, the Furies' liminal position with respect to the play's City allows them to voice a critique of its narrow and gendered grammar of justice, awoken anew by the trails of blood strewn on to the steps of the *Palais de Justice* and the taint of broken oaths.

**"We'll hold our own trial": Feminine Vengeance and Democratic Justice**

> Descend under the earth, Athena said to us,
> And don't send any diseases or fatalities upon my citizens.
> No, no. Yes. Yes. So I said. So she said.
> So we descended to live under the Earth, as promised.
> And for tens of hundreds of years
> We were not seen!
> We remained seated, our mouths filled with dirt,
> In the agreed upon darkness.
> And here you have it, this is what it gave, this beautiful contract (55-56).

In this section, I extend Cixous' psychoanalytic critique of law given the context described above. My reading tracks, first, how feminine difference comes to stand in for a general threat of chaos and uprising in *La Ville Parjure*, and second, how Cixous re-figures what justice might mean through this meditation on the feminization of claims to justice. I argue that feminine vengeance is re-figured by Cixous as a democratic force for wording indignation that is crucial to defending the integrity of the public sphere, rather than, as the play's state representatives would have it, a threat to the stability of democratic society itself.

Let me set the stage. If the Furies are remainders that disturb limits and borders, the theatrical scene in which Cixous and Mnouchkine have them rise attests to this fact. The cemetery in which the play's action takes place sits beneath the looming and decrepit wall of a city not an

inch of which, according to the Mother protagonist, has been untouched by rot, corruption, and stench (19). *La Ville Parjure* is a six-hour epic, set in what to reviewer Joan Dupont looked like a "putty-colored tent city in a vast cemetery […] for the sick and homeless." The costume designers Nathalie Thomas and Marie-Hélène Bouvet, she recounts, have designed "faded rags for the disinherited, sleek black coats for the wicked, and bright red tops for the dead boys" – in these material details, she writes, "you can feel the director's steady gaze, meting out justice."[121] For Julie Street, the chorus that "shuffle[s] on stage, dressed in rags […] represent the dispossessed of all times."[122]

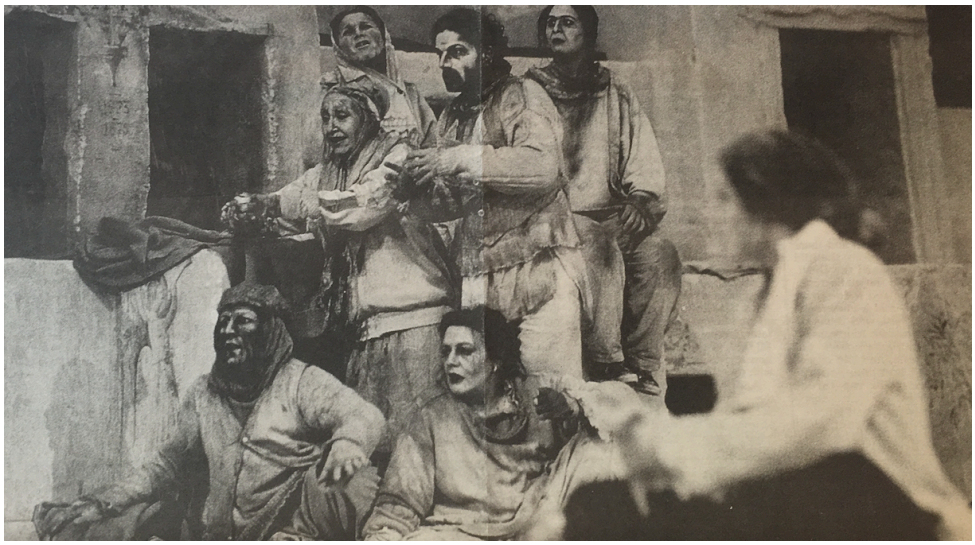

Figure 2. News-clipping of *La Ville Parjure* in *The European,* June 10, 1994. Bibliothèque Nationale de France.

The dwellers of the cemetery are not only the "innocent" hemophiliacs, but "the captive, the excluded," that, as mentioned above, Cixous takes as her mission to make heard politically in the theater. In *La Ville Parjure,* a woman they call Aeschylus (played by Myriam Azencot) is their

[121] Joan Dupont, "In Paris, the Return of the Furies." *International Herald Tribune.* June 8, 1994.
[122] Street, "Queen Ariane Triumphs at Tragedy."

guardian, and the Furies are their representatives. Unlike in the *Oresteia*, we learn their Hesiodic names: Alecto, Tisiphoné and Mérgère swear that, while "nothing seems to have changed" (54) in this world they enter anew, "except maybe the telephone" (56), they have remained "the same" (55). They "continue to love the good right of the mother, above all rights to the contrary" (55), but their memory falters as they recount "that famous day" when they signed "a civic treaty of peace for all time" with "Queen Athena" (55). "I was in red…" one of them recalls, only to be interrupted by Aeschylus with a quick correction – "In black… always, the Erinyes. Draped in black drapes with black stripes…" (55). The color of their robes – black at the start of the *Eumenides,* crimson upon their exit with Athena – is an important fact for them to have forgotten, signaling that their decades underground may have lessened their fury.

Looking around at the world they have been brought into, their outrage is quickly restored to its pre-*Eumenides* glory. "The same blood" that saw them rise in Greece "still flows into dust/ and once spilled, it does not return. What good, then, was this treaty" (56) that they signed? One of the conditions of their treaty with Athena was that they refrain from casting curses of sterility and disease onto the people of Athens, but they wake to find that others have "unleashed a flood of intractable plagues" (56), of which the Mother Ézéchiel's sons have died. If it might seem to their audience strange that they rise now, upon the death of a child, they assure them it is not because of the unique innocence of hemophiliac children – "All of them," they say, presumably referring to the many vulnerable people affected by HIV "are so thin,/ so cheerful" (57). Why then is it this death that sees them rise? "That's how it is," they explain. "No one ever knows what the last straw is [*qui est la dernière goutte*]" (57). Justice was not served in the courts, the Furies exclaim, and "we can rip the judgments passed into a thousand pieces,/reduce them to ashes/All of the court scenes/Start them anew. Start the trial from Zero" (59). They will preside over a new

trial, one that takes place on their own terms. This is an important stipulation, for even as the distraught Mother foreswears the City in the opening scenes, the representatives of legal justice continue to want to settle with her on theirs.

The play opens onto a scene of lament: a Mother (played by Renata Ramos Maza) has lost her two sons, Daniel and Benjamin Ézéchiel, to contaminated blood. She renounces the nearby City, calling it "cursed," a "castle swarming with wolf-snakes" to which she vows to never return. "Listen," you "child-eater, grave-digger of hopes," as a mother throws "with all [her] strength" her "fury" at your "forehead made of granite" (19). This city pretends to be deaf to her cries, she states, but this is only because its ears have been "carefully plugged/ with a thick, golden mud" (19). The supreme regard for profit that led to the premature death of her sons has taken over this "cruel society" (19) such that her voice struggles to be heard by any of its representatives. She has to leave the City behind, but her destination is as yet unclear: "And now, where shall I live?/Where do unchilded mothers go" (93)? Upon the Mother's question enters Aeschylus, caretaker of the cemetery described above, who welcomes her to the "city of the dead" (22). The cemetery and anti-city that Cixous and Mnouchkine set up and that Aeschylus, played by a woman, takes care of, is rough. It is inhabited by those that have been sacrificed to the reign of profit that corrupts the nearby City. Even here the Mother is not sheltered from pursuit by agents of the state. In a reversal of how the Furies were described when they first appeared to the mind of Orestes in the *The Libation Bearers,* Cixous represents the *lawyers* as hounds coming to hunt and prey on the Mother. "Listen!," warns Aeschylus, "Ah! Already! On your tracks! Hear those steps?/ They search! They taste! They smell. Hastily! They hunt" (24) for her, and she ought to hide. The Mother agrees to descend into the cemetery, assuring the audience that "they'd better not expect her erasure" (24).

In the next scene, the defense's lawyers enter, intent to resolve the issue by paying her off. "Tell her we've come all the way here in person," they say to Aeschylus, driven by a concern for appeasement. They state that they are experienced men, who "know the price of mourning," and are "ready to comfort her very, very generously" (27). They have not yet met the Mother, who herself has avowed in the prior scene that she "does not know what she wants" (22). Her uncertainty stands at a stark contrast to their certainty to know the price-tag of grief. That they already know the price of mourning, and she is still unsure of what kind of remedy she seeks, speaks to how the institution of law does not transcend, but replicates, the 'tit-for-tat' understanding of retribution that it decries of vengeance. That the defense is so intent on reaching the mother, as I show below, further demonstrates how calls for justice that exceed legalistic categories of redress are feminized and come to be perceived as vengeful.

Part of the reason they are there, the lawyers explain, is that they have heard rumors that scare them. M. Brackmann explains,

> It's being said everywhere […] That, driven to madness by the death of her two children,/This lady suddenly oversteps the limits of the law/And the boundaries of reason and justice./ They say she went underground/There to join some band of nameless people,/A mafia, a sect, a bunch of separatists, a phalanx, a network, an army,/A rabble of vengeful individuals/Whose hideout lies/In the depths of this Cemetery (28).

While they portend not to believe these rumors, it becomes clear in their subsequent exchanges with Aeschylus that, in their view, the Mother's refusal to accept the terms of their settlement offer would represent a kind of madness. Her "pain [*douleur*] leads her astray," and in her pursuit of criminal charges against their client, they fear, "injustice gets carried away and runs its course interminably" (29). The scenes are "too fresh" to properly give an account of them, where a proper account would be "delivered from the passions/that horribly distort them" (30). An "appalling noise" bursts forth, the lawyers continue, "all the journals are saying it. This woman wants

death./She speaks of tearing into pieces, cutting throats, amputation,/tearing flesh, of an unbearable destruction of manhood [*insupportable de la virilité*]" (30). Aeschylus, again pressing the lawyers, ask if they believe these rumors, to which they respond that "certainly" they do not, "but then again, who can judge" (31)? "Who can say where the pain of a traumatized woman stops" (31)? The representatives of the legal system must rely on her discursive construction as uncontainable in order to render the terms of their proposed settlement uniquely reasoned and dispassionate.

If they deny believing any of the rumors, then, the lawyers nevertheless capitalize on stoking an outsized imagination of "what women are capable of inventing" (30) when seized with grief – a foil against which their offers of settlement appear to be the only reasonable way forward. Ultimately, they worry, "Madame Ézéchiel might inflict a disproportionate harm upon herself./It's for her that I plead, first of all" (31) says M. Brackmann. The existence of this single, grieving mother comes to represent for them the threat of a contagious, seditious threat that might, by "suggestion, hypnosis, […or] visions" come to infect and stir up the imaginations of countless others in the City, "young people and older people equally" (31). The lawyers' exaggerated portraits of the chaos that a woman's grief might unleash, here, also takes the form of a threat against the Mother herself, when they mention that it is her interest that they also keep in mind. This "noise" that she is stirring up is "a very contagious disease," they warn, and more worrisome, they suggest, is that "nothing spreads faster than a bad example." On this last point, Aeschylus agrees with Brackmann – that "nothing spreads faster than a bad example" (31) is a lesson that can aptly be applied to the many medical and administrative professionals whose lack of courage to speak, or disregard for, the truth led to the unnecessary contamination of so many. The hypocrisy that was displayed by Garretta and his defense lawyers at court, described above, is already on full display, only moments into *La Ville Parjure.* In Cixous' play, women and their allies – including

Aeschylus – do not allow the metaphors of pollution that will be used to discredit them to go un-challenged.

Throughout the play, metaphors of disease and contagion perform a twofold function. On the one hand, they are used by the lawyers and other representatives of the state in the play conjure images of chaos associated with the Mother, whose unchecked grief threatens to wreak untold havoc and disorder in the kingdom. These "feminine tropes of frenzy and pollution," to speak with Zerilli, cannot be explained away as "mere rhetorical flourish[es], expendable to political meaning," and neither can they be restricted to the lone character of the Mother.[123] The political legitimacy of the lawyer's proposals lies precisely in the way that they deploy visceral images of blood and flesh to conjure up what is ultimately an "indistinct figure"[124] of chaos, described above. What Cixous' play gives us to see is how metaphors of frenzy and pollution foundational to the establishment of law at Athens continue to perform the symbolic work of discrediting claims to political justice that challenge the legalistic terms which, for Brackmann and Marguerre, as for Athena, claim to be uniquely capable of adjudicating events like the blood affair democratically. In *La Ville Parjure,* Night and Aeschylus help the Mother to see the mutual imbrication of persuasion and force at play in the lawyers' words and in their settlement offer. It is not she, but they that are "hounds" who pursue their ends with fervor.

Even before she calls on the Furies' assistance, Night herself denounces the lawyers, "these duplicitous rats" whose plan of action she says can be "grouped under three main headings:/insinuation, muffled violence," and "the evil use of speech" (35). They want to pass "the false for the true," she continues, and to hide the "stench" of their "poisoned" proposals in the

[123] Zerilli, *Signifying Woman,* 74.
[124] Zerilli, *Signifying Woman,* 82.

"bouquet" of just offerings (25). In yet another reversal of terms, then, as when the lawyers were described by Aeschylus as hounds, Cixous shows how the dispossessed can use metaphors of disease, rot, and contagion to challenge the very tropes through which the lawyers would discredit their calls for justice as the cries of a vengeful mob intent on destruction. In addition to its deployment of vengeance as a trope, Cixous' play reflects directly on the 'the path' of vengeance in these early scenes. Witnessing the Mother's pain, Aeschylus asks her if she might be better off settling. "They offer you gold, that you detest," she reasons, "But still, they are offering you the most valuable thing that they have […] When will this conflict end" (38), she implores? The explicit discussion that takes place between them as to the perils that attend the path of vengeance is important, as it lays the ground for how we should understand this play's feminist re-figuration of the Furies as agents of democratic justice, rather than hounds of vengeance alone.

Is vengeance "your loyal friend," asks Aeschylus, or instead "the one who brings you too far," up to the edge, where you "stagger, make a misstep" and fall, and it turns out that the "friend who pushed you there does not follow you" (39)? The Mother makes it clear that she understands the ways that vengeance can lead to situation where "everything is turned into its contrary," where "tyrants proclaim themselves victims" and victims come to look like executioners – "I know all that" (39). She nevertheless refuses to take the lawyers' offer. Some interpreters of the play have suggested that in this scene, "vengeance is deemed to be a dead end in that it leads to a position of reversibility between innocence and guilt."[125] Writes Brigitte Weltman-Aron, here Cixous "turn[s] down the option of retributive vengeance."[126] If vengeance is discarded so early on in the play, what use is there for the Furies, who have yet to enter the scene at all?

[125] Weltman-Aron, "Political Betrayal," 80.
[126] Weltman-Aron, "Political Betrayal," 80.

My point is neither to defend retributive vengeance not to suggest Cixous does so. It is rather to show how the women who have historically been figured as agents of vengeance are re-figured by Cixous' critique of legalism as voices of a justice that is unbound from law. In an interview with the Cixous, Bernadette Fort asked her directly: "[…] are you suggesting that this world could use some Furies? Should we continue nurturing our vengeance?" I take the liberty of reproducing Cixous' response here.

> This is one of the questions of the play, of course. But it is to be ruled out […] I'm against capital punishment. Vengeance is a snare […] But it's really the fact that they were vociferating that I miss. They would shout, they would express reproach in a way that now and then we need. We need *the wording of indignation* […] I was reading the *The New York Times* last Friday and I came upon the case of the young black driver who was, so they pretend, accidentally choked by the cops. I read four columns of "objective" narrative of the case, and I felt enraged, enraged. How I wished the Furies had written the paper and not the journalist![127]

While I agree with readers of the play that vengeance, in the sense of violent acts of retribution, is not lauded in *La Ville Pajure*, my reading suggests that Cixous re-figures the question of vengeance, and hence of justice, entirely. The public function of the Furies that Cixous alludes to above – the unrepentant wording of indignation, the risk of eschewing claims to objectivity – stems from her critique of legalism's grammar of justice, which might well judge their narrative of a police killing as vengeful and defamatory. The Furies rise because the Mother, sings the Chorus, "wants something that does not exist" (41); these goddesses' relentless indignation at injustice refuses the equation of justice with objectivity and rationality that is assumed by the ideology of legalism. This re-figuration of what justice can mean becomes possible in theater, where we are unsettled from categories of identity and forced to confront ourselves as potentially complicit. In

[127] Cixous and Fort, "Theater, History, Ethics," 448-449.

Cixous' theater, the hard dichotomy between victim and perpetrator that flourishes when we remain captive to coherent identifications is revealed to be untenable.

Previous interpretations of the play fail to consider how vengeance can be understood not as one existing means among others towards a shared end, but one that challenges what we take that end to be. Treating vengeance as a means, these readings do a disservice to the way the tropes of vengeance are not only leveled by the lawyers against the Mother and her partisans, but marshalled by the Mother, Night, and her Furies in the service of a broader critique of a legalistic understanding of justice. What the Furies give us to see – and why they rise even despite the Mother's 'rejection' of the path of vengeance – is how the reduction of democratic justice to legal resolution empties the former of its meaning. By using metaphors of disease, rot, and contagion, the Mother and her Furies, much like the partisans of ACT-UP, deploy the tropes of feminine vengeance as a way to expose and to denounce hypocrisy and corruption in the very institutions that claim to be uniquely capable of meting out justice. The Furies have had enough of trials at court, they have come to understand that there is "no state more unbearable/than that of sending a plaintiff to court/having first cut off her proper tongue-language [*langue*]" (70). They persuade the Mother to let them assist her in her quest.

In the exchanges that follow the comic scene of grammatical trickery I analyzed above, the Furies are speaking to the accused (X1 and X2) and their lawyers, who will not look their accusers in the face. "Tell us," they ask, "if you are not guilty [*coupable*]/ Why not look us in the face" (123)? From their perspective, the accused's inability to look them in the eyes is "proof" of their "stubborn commitment to crime" (125). The lawyers for the defense retort that, to the contrary, their clients' lack of emotional display is "proof of their innocence" (125). That their faces do not evince either shame nor regret is to be considered proof of their absence of criminal intent. The

lawyers are prey to that legal fiction described above, on which view the absence of a subjective state of mind like shame or regret at trial proves the absence of a subjective element or motive in the action whose consequences are being tried. "Don't you see that we are under the stars?," and not at trial, responds the Chorus, "Here, we don't care about the law. [*Ici, le droit on s'en balance.*]/ What we are aiming for is justice" (125). In what follows, it becomes clear that X1 and X2 are to represent Michel Garetta (CNTS director) and Dr. Bahman Habibi (his deputy at the CNTS), respectively. X1 mimics Garretta's response to victims pain, namely, that he would apply the "same decisions" to his "very own children" (127), while X2 refuses to swear an oath, rejecting oath-swearing as incommensurable with a "scientific attitude" towards truth (128).[128]

The gulf between victims and accused that was palpable at trial and was described above is again playing itself out, this time, in a theatrical public whose collective voice is the Chorus, who claim to want nothing but "the truth" (128). "The truth ? Which one ?!" respond the lawyers. The kind of truth they mean, the Chorus responds, is

> The most real truth, the most pure,
> The kind you can't prove with proofs.
> Proofs are good for confusing liars.
> The Mother and we, what we want,
> Is not much. We want an expression of regret.
> […]
> What do they risk? There is no judge,
> There are no cops. There are only dead people here,
> And those without identity (129).

[128] When Dr. Habibi was called as a witness during the course of the trials of blood described above, he very notably raise his right hand to swear, but declared "I swear to tell all the truth that is accessible to my knowledge," before being pressed by the presiding officer of the court to repeated the formula required of a proper oath. As recounted in Bettati, *Responsables et coupables,* 128-129. My translation. Prior to his testimony on these last days of the trial, he had never once been at court, but sent his lawyer in his stead. That day he also took the opportunity to pronounce himself "a victim of defamation" by the journalist Casteret, whose reporting on the blood affair revealed official memos carrying his signature that contributed to the CNTS' delays in re-calling unheated blood products.

The scene ends as the accused exit and the Mother promises the ghosts of her children that she will "go back to the fight" for them (132). Night laments that she introduced this scene with "horns and trumpets," this scene that has left her "eyes filled with tears" (132). The Mother and her partisans pleas have failed to pierce through the defense's wall of denial – the latter, and not the former, explain the Chorus, "prefer combat to consolation" (129). Their stubborn adherence to the objectivity of law, Cixous and Mnouckine show us, leads to them to act in a way that is more akin to the path of vengeance than to that of justice.

In Scene XVIII, the Mother, Night, and Erinyes confront X1 one last time before the curtain's close. "I've had enough./Just kill me and let's be done with it," he pleads. The Furies respond that they'd like to, but they've promised the Mother that they will only exhaust him (171). X1 implores why he alone has been made into "monster," why he alone has been "chosen and selected to be ripped apart" (172). Night holds up a mirror before him and asks what it is that he sees in it. To her surprise, he doesn't see himself, but only sees the Mother approaching him. Night encourages him to speak with her as if no one else is present. This intimacy of this scene notwithstanding, he begins by saying that if the Mother wants him to apologize, the conversation ends there. Instead, she asks to get to know him better. He recounts how he once saved a drowning child from a flooding river, asking how it could be possible that the same man would do something like that be at the same time guilty of what he is accused of now. "Between these acts and me there stands an immense wall" with no "crack or split" in it (176). It becomes clear that this man believes what he is saying, and Night advises them all to let him go – "There is no person behind this appearance" (178) she exclaims as he exits the stage. "What is so tragic about your tragedy," say the Furies to the Mother, is that "this man knows neither terror nor pity" (179). He is so beholden

to the morality of legalism as to be beyond communication, even in this tribunal of the dispossessed.

**Conclusion: *"Le dénouement c'est nous"***

At the end of the *La Ville Parjure,* the new fascist leader of the city, named Forzza, threatens to wipe out the entire cemetery and the population of exiles, foreigners, and dead among which stand the Mother and the Furies. "They should evacuate the cemetery," reads his message to the Mother, "or else…" (182). The mother pleads toward the audience,

> Don't listen to this sinister message.
> Open your eyes and see: Everything is up you.
> […]
> This rough garden is more than my cemetery,
> […]
> It is our library, our archive, and our future.
> […]
> This strange and cruel history
> Is not just the business of an insignificant woman (185).

The mother's words show clearly how, for Cixous, events like the blood affair are not reducible to the cause of the lone Mother whose voice managed to call forth a response from the state. Events like this are not a mere grieving woman's problem, even if it is by virtue of that identity that they became recognizable in the court of law. The Furies join the Mother's cry to action and vigilance. Their last words before the flood descends into the cemetery, wiping everyone out, are "We decide the outcome [*Le dénouement c'est nous.*]" (186).

Night finds this ending to Cixous' play unbearable, as Cixous did the Furies' fate in Aeschylus' tragedy. In an epilogue, Night calls on the Furies to collect the castaways left behind by the flood that ravaged the city and bring them along to an extra-terrestrial space, an infinite city of black velour with "no angles, curves, or borders" (198). The Mother's last words in the Epilogue

suggest that this unsatisfying ending notwithstanding, her fury is not to be forgotten or placed underground. She exclaims,

> Who among you will yell?/ I will place my words, my thoughts, my furies,/ in the earth, under your feet./ But these earths pregnant with my secrets have to/ grow the tree of fury. Or else!/ Never again will a human being with light-filled eyes/ ripen in this country./ Our piece is over. But let yours begin (202).

This chapter began with a simple insight: in Cixous' play, we see how the story of the Furies is not over. Events like the blood affair break the mythical settlement between Athena and the Furies wide open because they expose the fragile and ultimately political grounds upon which the distinction between vengeance and justice rests—a ground that shifts according to that which is perceived to acutely threaten the stability of a given liberal democratic society. It is fitting, then, that this chapter ends on a similar note: the tragedy of the respectable woman whose pain is capable of being heard, if in a compromised form, by the liberal legal framework, lives on in the contemporary U.S. today.

The next and final substantive chapter of this dissertation builds upon the insights as to the fragility of the dualisms between guilt and innocence, victim and perpetrator, and vengeance and justice that my reading of *La Ville Parjure* as a critique of legalism has laid bare. I extend these insights to the contemporary resurgence of feminist fury captured most neatly by the #MeToo movement, in which survivors of sexual violence have brazenly asserted—to the trepidations of liberal defenders of the sanctity of law and radical critics of law's legitimacy alike—that *they* will set the terms upon which trials of sexual injustice take place. That they, in other words, will write the story, and struggle to decide the outcome, raising concerns about the democratic viability of public spheres in which private individuals serve as judge, jury, and executioner.

## Chapter 4. Fury in the Public Sphere: #MeToo, Abolition Feminism, and the Agonistic Politics of Public Speech

> In all its bloody triumphs over the self-sacrificing champions of a new and better society, that nefarious civilization, based upon the enslavement of labour, drowns the moans of its victims in a hue-and-cry of calumny, reverberated by a world-wide echo. The serene working men's Paris of the Commune is suddenly changed into a pandemonium by the bloodhounds of "order." And what does this tremendous change prove to the bourgeois mind of all countries? Why, that the Commune has conspired against civilization! […] The women of Paris joyfully give up their lives at the barricades and on the place of execution. What does this prove? Why, that the demon of the Commune has changed them into Megaeras [Furies] and Hecates [witches]![1]

> It is a mass fury: occasionally so frenzied that it makes people nervous. Were it any other way, nothing would ever change.[2]

In Chapter 3, we saw how dynamics of privilege, inclusion, and exclusion, as well as national anxieties, shape the discursive and ideological terrain in which claims to justice can be heard as such. My reading of Cixous' *La Ville Parjure* showed how, in contexts shaped by colonial histories, racism, sexism, and heterosexism, the state does not respond to all claimants equally. I argued that we ought to interpret Cixous' choice of a grieving mother as the protagonist of her play as revealing the extent to which a claim to justice must be domesticated into legible categories for it to be heard as deserving of response from the state. White mothers and white children have long benefitted from their discursive construction as uniquely innocent and thus, as grievable, to recall Butler, in France as well as in American society. Their harm's ability to summon the state's response in these societies has been criticized for perpetuating the patriarchal and white supremacist notion that law's primary prerogative is to protect these groups' vulnerability to

[1] Karl Marx [1871], *The Civil War in France, preceded by the two Manifestoes of the General Council of the International on the Franco-Prussian War,* London, UK: The Labour Publishing Company, 1921, 44.
[2] Traister, *Good and Mad*, 41.

predatory individuals, whose 'predation' is defined in opposition to an innocence that is constructed as white.[3] Within liberalism, explains Wendy Brown, legal "[p]rotection codes" have been and continue to be "key technologies in regulating privileged women," all the while "intensifying the vulnerability and degradation of those on the unprotected side of the constructed divide between light and dark, wives and prostitutes, good girls and bad ones."[4]

On the other hand, our journey into the world of the Cartoucherie suggested how alliances across differences might emerge precisely from a critique of the grammars by which claims to justice become legible to the state in the first place. This critical interrogation of the ideology of legalism was palpable to the public assembled in Cixous' theater, but we the blood affair did not provoke similar insights in commentators in the broader French public sphere. To speak with Butler, the cries of hemophiliacs and AIDS activists for justice did not sufficiently alter the "scene of address" in France.[5] Through a comparison of the varied publics assembled in the theater, at trial, and in French society we saw how the nature and definition of the public in which political speech occurs greatly circumscribes the possibility of its uptake as either vengeful or just.

Extending this analysis, in this chapter I treat of the contemporary U.S., and more specifically, of a discursive context in which women's voices have been elevated to perhaps

---

[3] For an account of the figure of the child as central to understanding the American carceral regime, see Erica R. Meiners, *For the Children?: Protecting Innocence in a Carceral State* (Minneapolis, MN: University of Minnesota Press, 2016). On how innocence criteria are embedded in legal paradigms of victimhood in ways that are exclusionary, see Diana Tietjens Meyers, *Victims' Stories and the Advancement of Human Rights* (Oxford, UK: Oxford University Press, 2016). 'Protecting children' has also recently served as the ideological basis for a number of anti-trans, sexist, and homophobic legislations and right-wing talking points in the U.S. See Michael Bronski, "Grooming and the Christian Politics of Innocence." *Boston Review,* May 3, 2022, https://bostonreview.net/articles/grooming-and-the-christian-politics-of-innocence/

[4] Wendy Brown, "Finding the Man in the State," *Feminist Studies* 18, no. 1 (1992): 7-34, 9.

[5] Judith Butler, *Giving an Account of Oneself* (New York, NY: Fordham University Press, 2005).

unprecedented levels of publicity, thanks in no small part to the revival of the #MeToo movement. Building upon Chapter 3's insights about the slippery quality of the dichotomies between innocence and guilt and between vengeance and justice upon which legalism rests, I analyze what to some appeared to be an ideal case of women achieving justice by legal means. I critically examine the criminal sentencing of serial child sexual abuser Larry Nassar in the context of the broader #MeToo movement. More specifically, I break down the elements of this case that would make it appear to be a success story in conversation with the movement's critics and defenders alike, attending to the dynamics of privilege by which it rose to the level of national attention.[6] More than a legal case study, however, this chapter examines how the criminal proceedings were interpreted in the context of a re-negotiation of the boundaries between public and private spearheaded by #MeToo. I track this re-negotiation by assessing, first, the anxieties about impartiality and justice raised by critics of the #MeToo movement, and second, the ways that those anxieties were made manifest in the context of survivors' use of Victim Impact Statements (VIS) in court.

VIS have long been decried for evoking and stoking emotions like hatred and fury deemed inappropriate to the context of criminal sentencing. With its 1991 decision to include VIS as relevant evidence in *Payne v. Tennessee*, writes Susan Bandes, the U.S. Supreme Court "disinterred a primitive vision of privatized justice" inimical to defendants' constitutionally

[6] The publicity afforded to the Nassar case was enabled by the nexus of his victims' whiteness (by and large), their status as children at the time of abuse (by and large), and proximity to elite national sport (and thus to celebrity and to the American Dream). For a historical account of the rise to prominence of women's gymnastics through the lenses of gender, race, power, and national politics, see Georgia Cervin, *Degrees of Difficulty: How Women's Gymnastics Rose to Prominence and Fell from Grace* (Champaign: University of Illinois Press, 2021).

protected rights to a fair trial.[7] My analysis of women's use of VIS in the Nassar case shows how this legal debate is not insulated from, but emerges in tandem with, the broader concerns about justice and vengeance that have been raised by #MeToo, introduced in Chapter 1.[8] In both the public sphere and in the context of particular legal cases, I show, anxieties about the vengeful woman who threatens to upend order inform and circumscribe normative judgments as to the legitimacy or illegitimacy of the means by which women make claim to justice.

What worries even sympathetic critics of #MeToo is that the "rule of law is being flouted by individual claims to authority" uttered without regard for legal burdens of proof.[9] Writes Nussbaum, that #MeToo "is social rather than legal," even if some #MeToo allegations have led to criminal charges, "creates a problem: how to secure justice and protect equal dignity when punishment is meted out not by impartial legal institutions but by shaming and stigmatization."[10] That the movement has eschewed the court of law as the sole means by which survivors of sexual violence may stake their claims to justice, on the other hand, is precisely what defenders of the movement applaud. What is at stake in criticisms of #MeToo, as well as in broader concerns about

---

[7] Susan Bandes, "Empathy, Narrative, and Victim Impact Statements," *The University of Chicago Law Review* 63, no. 2 (1996): 361-412, 407.

[8] In her argument against the use of VIS in criminal sentencing, Bandes writes that they evoke "a complex set of emotions directed toward the defendant, including hatred, fear, racial animus, vindictiveness, undifferentiated vengeance, and the desire to purge collective anger." What they share in common, she writes, is that they "all deflect the jury from its duty to consider the individual defendant and his moral culpability." Bandes, "Empathy, Narrative, and Victim Impact Statements," 395.

[9] For Samantha Rose Hill, the movement participates in a broader moralization of politics and amounts to a mere demand for power, and not recognition—in her view, recognition is seemingly the only properly political demand. See Rose Hill, "When the Private Becomes Political."

[10] Martha C. Nussbaum, *Citadels of Pride: Sexual Assault, Accountability, and Reconciliation* (New York, NY: W.W. Norton and Company, 2021), xiv.

'cancel culture' in a public sphere newly democratized by social media,[11] is the very definition of punishment. Some have gone so far as to compare contemporary 'canceling'[12]—which has been conflated by many, whether fairly or unfairly, with #MeToo—to practices of sacrifice and exile that date back to ancient Greece.[13][14]

Fears about the resurgence of pre-liberal norms of social regulation—which is to say, of the return of vengeance—in the contemporary public sphere are not only raised by defenders of the sanctity and impartiality of legal judgment. Indeed, they have also been raised by the criminal legal system's staunchest critics, if not precisely in these terms. Contemporary prison abolitionists, for example, worry that while adjudicating wrongs in the public sphere may be preferable to doing so in courts, tied as they are to the epidemic of mass incarceration plaguing the U.S., such extra-legal means risk reproducing—rather than upending—the dichotomies between guilt and innocence that prop up the carceral regime. The public, social practices of speech and accusation

---

[11] Technology, explains Cathy Cohen, "has been a critical tool in terms of democratizing the voices who can be part" of contemporary social movements like #MeToo and BLM. See Cathy Cohen and Sarah Jackson, "Ask a Feminist: A Conversation with Cathy J. Cohen on Black Lives Matter, Feminism, and Contemporary Activism," *Signs: Journal of Women in Culture and Society* 41, no. 4 (2016): 775-792, 783.

[12] Briefly, a social practice of distancing oneself from an individual, which may include acts such as refusing to publish them or otherwise lend credence to their speech, thereby diminishing their social, political, or intellectual capital.

[13] "The modern scapegoat performs an equivalent function" to the one the human sacrifice did in those times, writes Ligaya Mishan "uniting otherwise squabbling groups in enmity against a supposed transgressor who relieves the condemners of the burden of wrestling with other wrongs." Ligaya Mishan, "The Long and Tortured History of Cancel Culture." *The New York Times Style Magazine,* December 3, 2020, https://www.nytimes.com/2020/12/03/t-magazine/cancel-culture-history.html.

[14] On this view, to publicly denounce an individual's harmful behavior is in effect to distance oneself from them and by implication to suggest that 'they' are fundamentally unlike 'me'. Nussbaum goes so far as to say, of #MeToo, that it encourages a form of "group behavior" that "can at times yield a reverse type of objectification," that is, one perpetuated by women onto men. Nussbaum, *Citadels of Pride,* xv.

that have been central to #MeToo are not central to the abolitionist understanding of politics, in part, due to the belief held by many abolitionists that "you can never actually make anybody accountable. People have to be accountable."[15] On the abolitionist perspective, explains Charlene Carruthers, American society lacks healthy models for accountability and is trapped in "models that rely on punishment and on shaming people," which she holds reinforce carceral logics even when they take place outside of the legal context, such as on social media.[16]

As a theory and practice, abolition feminism, explain Angela Davis et al., is about "reclaiming 'accountability' from the carceral regime" even while "hold[ing] those who use violence accountable."[17] Abolitionists seek to de-couple accountability from punishment entirely, viewing practices of social shaming as of a kind with carceral discourses surrounding wrongdoing that stigmatize and pathologize those who break the law in de-humanizing ways. In this respect, abolitionists share liberals' and constitutionalists' concerns about protecting human dignity, even while they seek to re-imagine the concept and wrest it from its liberal legal genealogy.[18] "Abolition," explains Black Lives Matter (BLM) co-founder Patrisse Cullors, must be "committed to building a culture that is rooted in care, *dignity*, and accountability," where accountability is not

[15] Mariame Kaba et al., *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice* (Chicago, IL: Haymarket, 2021), 141.
[16] Charlene Carruthers cited in Deva Woodly, *Reckoning: Black Lives Matter and the Democratic Necessity of Social Movements* (New York, NY: Oxford University Press, 2022), 107.
[17] Angela Davis, Gina Dent, Erica Meiners, and Beth Richie, *Abolition. Feminism. Now.* (Chicago, IL: Haymarket, 2022), 14, 82.
[18] While the U.S. Constitution does not mention dignity, conceptions of personal and human dignity have become a regular feature of American jurisprudence in the 20th century. See Neomi Rao, "Three Concepts of Dignity in Constitutional Law." *Notre Dame Law Review* 86, no. 1 (2011): 183-271. For an abolitionist perspective on dignity, see Jonathan Simon, "Dignity and its discontents: Towards an abolitionist rethinking of dignity." *European Journal of Criminology* 18, no. 1 (2021): 33-51.

pursued at the cost of viewing people who commit harms as fully human and is not imposed upon them from the outside.[19]

What #MeToo has brought into sharp view, however,—perhaps especially in light of how many powerful men accused of sexual misconduct continue to hold positions of high esteem, including in public office—is precisely that people who perpetrate harm must be *held* accountable. When a collective speaks out about an individual's abuses and wants to see them face consequences for those actions, this need not entail shaming. If the individual is pressured by way of #MeToo allegations to resign from their job, their personal dignity is not thereby endangered. When the allegations do not lead to such a consequence, on the other hand, #MeToo's claim is that what this failure of responsiveness communicates *does* threaten the dignity of his victims. While I agree with the abolitionist insight that accountability cannot properly come from criminal courts and jail sentences, then, this chapter defends practices of public speech and accusation from their characterization as practices of "shaming."[20] Conceived of this way by liberals and abolitionists alike, I suggest, feminist speech is stripped of its political significance—by the former, as an archaic remnant of pre-liberal society, and by the latter, as a thinly veiled desire for retribution.

Drawing on agonistic theories of democracy, I track how accountability can emerge from the collective voice of survivors who refuse to remain silent, and in so doing, create the conditions

[19] Patrisse Cullors, "Abolition and Reparations: Histories of Resistance, Transformative Justice, and Accountability." *Harvard Law Review* 132 (2019): 1684-1694, 1694. My emphasis.
[20] Here I agree with Jill Locke, who argues that practices of shaming, while they may "always be a part of politics," need not "occupy a central position in feminist-democratic politics." Yet I maintain that survivors' practices of speech and accusation ought not be conflated with shaming. See Jill Locke, "Shame and the Future of Feminism," *Hypatia* 22, no. 4 (2007): 146-162, 148.

of possibility for a structural challenge to the patriarchal status quo.[21] Departing in this respect from the abolitionist feminist position, I argue that survivors' speech acts, even when they take place in the context of the legal system, serve as important expressions of norms whose effects reach beyond the legal context and alter the very terrain of their reception. I suggest that we understand the hundreds of speech acts that made up Nassar's sentencing hearing as part of an agonistic 'arc of refusal,' to speak with Bonnie Honig, that was inaugurated by #MeToo's resurgence in the public sphere. In her recent *A Feminist Theory of Refusal*, Honig stresses the importance of the 'arc' rather than the 'act.' "Depicting refusal as an arc," rather than a single defiant act, is important, she explains, because it "conveys a normative, civic, and feminist obligation to risk the impurities of politics on behalf of transformation."[22] Risk and unpredictability make up the very stuff of political speech and action and this is what abolitionist feminist criticisms of #MeToo and of women's VIS in the Nassar case have obscured.

This chapter intervenes in a critical debate in contemporary feminist politics about the use of the criminal legal system to pursue justice for survivors of sexual violence.[23] I argue that legal instruments can be utilized agonistically by survivors of sexual violence for feminist ends. I analyze survivors' speech acts at Nassar's televised sentencing hearing politically, that is, as

[21] Maxwell, "Towards an agonistic understanding of law"; Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca, NY: Cornell University Press, 1993); Andrew Schaap, ed., *Law and Agonistic Politics* (Burlington, VT: Ashgate, 2009).
[22] Honig, *A Feminist Theory of Refusal*, 1.
[23] Davis et al, 2022; Anna Terwiel, "What is Carceral Feminism?" *Political Theory* 48, no. 4 (2020): 421-442; Chloë Taylor, "Anti-Carceral Feminism and Sexual Assault—A Defense: A Critique of the Critique of Critique of Carceral Feminism." *Social Philosophy Today* 34, no. 1 (2018): 29-49; Amia Srinivasan, *The Right to Sex: Feminism in the Twenty-First Century* (New York, NY: Farrar, Straus, and Giroux, 2021).

"bring[ing] into being a space where a novel claim could be heard."[24] To do so, I emphasize how, first, survivors invoked political rather than legal norms in their statements, and second, how the sheer number of their statements enabled a magnification of the political substance of each individual claim.[25] What this approach shares with abolition feminism is a critique of the retributive character of a carceral understanding of justice.[26] Where it departs is in its insistence on the potential for survivor's public speech – even and perhaps especially when it takes place at the bounds of law – to challenge and to potentially transform the character of the audience in which it is heard.[27] I begin with an overview of the circumstances that led up to Nassar's sentencing in January of 2018. Next, I situate it in the context of #MeToo, tracking how divergent perceptions of the case brought to light feminism's *contested public sphere*. I conclude that claims made by survivors for justice, even when they take place in the legal context, highlight the political grounds of law as a space of democratic contestation.

**Context: Larry Nassar and the USA Gymnastics Scandal**

[24] Aletta Norval, "Passionate Subjectivity, Contestation and Acknowledgement: Re-reading Austin and Cavell" in *Law and Agonistic Politics,*163-178, 164.
[25] In this I draw on Stephanie Larson's analysis of #MeToo as a form of feminist *megethos* (magnitude), which she argues can be "thought of as a strategy for puncturing—even if only slightly—pervasive yet normalized attitudes that constrain efforts for justice by instilling a bodily intensity in audiences through the accumulation of a list." While Larson's rhetorical reading of #MeToo is restricted to tweets, I believe her insights can be extended to the televised VIS I analyze as well. See Stephanie R. Larson, "'Just let this sink in': Feminist *Megethos* and the Role of Lists in #MeToo," *Rhetoric Review* 38, no. 4 (2019): 432-444, 434.
[26] Elizabeth Bernstein, "Carceral politics as gender justice? The 'traffic in women' and neoliberal circuits of crime, sex, and rights." *Theory and Society* 41, no. 3 (2012): 233-259.
[27] A pragmatic approach to the uses of law in feminist politics, coupled with an agonistic understanding of democratic practices of contestation, offers us a way to see #MeToo in a newly political light. See Laurie Balfour et al., "Bodies in Politics." *Contemporary Political Theory* 15, no. 1 (2016): 80-118.

What has come to be known as the USA gymnastics scandal and has been profiled in two feature length documentaries[28] began long before the sentencing hearing that is the focus of this chapter took place. This section briefly outlines the circumstances that led up to upwards of 150 women taking the stand, on national television, in the state of Michigan in January of 2018. Over the span of his 30-year career as a medical professional and athletic trainer in Michigan and around the world, Larry Nassar groped the breasts of and penetrated the vaginas of hundreds of young girls under the guise of providing them with medical care.[29] Though charges of sexual misconduct against him date back to the 1990s, he continued to maintain in 2014 that what his patients insisted were abuses were in fact "pelvic floor therapies" and "massages" that constituted standard operating procedure. He often conducted his abuse while young gymnasts' parents were in the room, and even posted videos of these "treatments" online. That it took so long to apprehend Nassar, whose abuses continued through the end of his employment with Michigan State University (MSU) in 2015, is equally if not more unconscionable than the sheer number of survivors of his abuse, which is today estimated at 500.

Nassar's abuse traversed many of the kinds of hierarchical relationships and relationships of trust in which sexual violation tends to be perpetuated. He was employed by USA Gymnastics (USAG), by MSU, by Twistars USA Gymnastics Club in Michigan, and by individual referrals to "treat" the children of family friends. If the national attention granted to his sentencing in January of 2018 was due largely to his employment and protection by USAG and the United States

[28] *At the Heart of Gold: Inside the USA Gymnastics Scandal* (2019) Directed by Erin Lee Carr [Film]. HBO: Sidewinder Films*; Athlete A* (2020) Directed by Bonni Cohen [Film]. Netflix: Actual Films.
[29] USAToday, "Who is Larry Nassar? A Timeline of his Decades-Long Career, Sexual Assault Convictions and Prison Sentences," *USAToday Network,* 2018, https://www.usatoday.com/pages/interactives/larry-nassar-timeline/.

Olympic Committee (USOC), it is important to make clear that his abuses spanned the spheres of neighborhood, local community, school, professional gymnastics, as well as national sport.

The man's large sphere of influence and his privileged position as a medical doctor each contribute to making the Nassar case extra-ordinary, even among other high-profile #MeToo criminal cases of individuals in positions of power and esteem, such as Harvey Weinstein. So too must the extra-ordinariness of the fact that survivors of sexual abuse were granted leniency—rather than treated with suspicion or derision—in the court of law factor into any analysis of his sentencing. In the legal arena, we know that burdensome evidentiary standards, bias in interrogations, coercive non-disclosure agreements, and statutes of limitations are only some of the hurdles faced by victims of sexual violence that seek to bring their cases to court.[30] While Nassar was eventually convicted for his crimes, the road traveled by his victims was not without its hurdles. Jennifer Doyle has detailed what made the truth of MSU student Amanda Thomashow's 2014 Title IX complaint against Nassar "so difficult [for administrators] to accept," showing how MSU's investigation was incapable of reckoning with the particular "scene of violation in Nassar's case (student/patient; faculty/doctor)."[31] The very dynamics that made this case extra-ordinary, in other words, also made the abuse difficult to prove.

---

[30] While U.S. federal law prohibits retaliation for reporting harassment and discrimination on the basis of sex and gender, non-disclosure agreements remain a powerful legal means of censoring women's voices – a censorship that is "not only culturally conditioned, but [that] can be contractually enforced." Annie Hill, "Nondisclosure Agreements: Sexual Harassment and the Contract of Silence," *The Gender Policy Report,* November 14, 2017, https://genderpolicyreport.umn.edu/nondisclosure-agreements-sexual-harassment-and-the-contract-of-silence/.

[31] Jennifer Doyle, "'Harassment and the Privilege of Unknowing: The Case of Larry Nassar." *differences: A Journal of Feminist Cultural Studies* 30, no. 1 (2019): 157-188, 160-161.

#MeToo and decades of feminist advocacy and theory have shown how the guise of procedural fairness enables a culture of impunity for perpetrators of sexual harm. "Two of the stickiest judgments that circulate in response to claims by women of sexual are 'he said/she said' and 'nobody really knows what happened'," explains Leigh Gilmore.[32] Yet, as Gilmore shows, these are the "conditions that typically initiate and guide a legal proceeding"[33] and their weaponization against victims of sexual violence who seek to have their narratives heard must be seen for what they are: products of a deeply gendered understanding of justice, as well as of who counts as a reliable speaker of truth.[34] These background conditions of gendered inequality are part of what #MeToo as a social movement sought to challenge, and as Doyle shows, they were compounded for Nassar's victims by their abuser's claim to possess expert medical knowledge.

Equally significant to understanding perceptions of the Nassar case is that it took place shortly on the heels of *Buzzfeednews.com*'s publication of Chanel Miller's VIS in 2016. Miller was known, at the time, as Emily Doe, in what has since come to be known as the Stanford case.[35] The statement, which she read in court to the Judge presiding over her case and to her rapist Brock Turner, was leaked online, stoking international outrage at Turner's lenient sentencing. The memory of this grave legal failure was fresh. In this context, the public, televised sentencing of Nassar seemed a breath of fresh air to survivors hopeful that something like justice could be found by way of the court of law. The young women who had, for the most part when they were children,

---

[32] Leigh Gilmore, *Tainted Witness: Why We Doubt What Women Say About Their Lives* (New York, NY: Columbia University Press, 2017), 6.
[33] Gilmore, *Tainted Witness,* 7.
[34] Stephanie R. Larson, "Survivors, Liars, and Unfit Minds: Rhetorical Impossibility and Rape Trauma Disclosure." *Hypatia* 33, no. 4 (2018): 681-699.
[35] Katie J.M. Baker, "Here's the Powerful Letter the Stanford Victim Read to Her Attacker." *Buzzfeednews.com,* June 3, 2016, https://www.buzzfeednews.com/article/katiejmbaker/heres-the-powerful-letter-the-stanford-victim-read-to-her-ra.

suffered abuse at his hands were given the chance to confront their abuser in a courtroom under the supervision of a sympathetic judge. In her powerful memoir, by contrast, Miller reflects upon her disappointing experience with the law,

> They tell you that if you're assaulted, there's a kingdom, a courthouse, high up on a mountain where justice can be found. Most victims are turned away at the base of the mountain, told they don't have enough evidence to make the journey. Some victims sacrifice everything to make the climb, but are slain along the way, the burden of proof is impossibly high. I set off, accompanied by a strong team, who helped carry the weight, until I made it, the summit, the place few victims reached, the promised land. We'd gotten an arrest, a guilty verdict, the small percentage that gets the conviction. It was time to see what justice looked like. We threw open the doors, and there was nothing. It took the breath out of me. Even worse was looking back down to the bottom of the mountain, where I imagined expectant victims looking up, waving, cheering, expectantly. *What do you see? What does it feel like? What happens when you arrive?* What could I tell them? A system does not exist for you. The pain of this process couldn't be worth it. These crimes are not crimes but inconveniences.[36]

At Nassar's sentencing, Judge Aquilina made sure that no victim of his who came forth would walk away from her courtroom with this experience of the mountaintop.

Instead, Aquilina's sympathy for, and even identification with, the many victims that spoke in her courtroom conveyed their bravery in speaking out and recounting the details of their abuse.[37] In additional contrast to Miller's case, this sentencing hearing took place after Nassar had already

---

[36] Chanel Miller, *Know My Name: A Memoir* (New York, NY: Penguin Books, 2020), 240-241.

[37] The case against interpreting Aquilina's posture towards Nassar's victims as constituting a form of identification—a conduct deemed unseemly for a judge to adopt—is weak. Although she did state during the hearings that she had "no dog in this race," she apologized to victims, encouraged them and supported them in their process of healing. Her posture was a form of identification, and while it was one that may have sought to harbor their injury in the service of punishment, it also sought to performatively enact the kind of response a speaker recounting legitimate harms suffered ought to receive. While Aquilina stressed that, "[c]ontrary to CNN's headline, I'm not a therapist," the VIS served as an attempt to provide healing to Nassar's survivors. See Josh Hafner, "The Judge in the Larry Nassar trial: Incredible quotes to victims and their abuser," *USA Today,* January 24, 2018, https://www.usatoday.com/story/news/nation-now/2018/01/24/judge-larry-nassar-trial-incredible-quotes-victims-and-their-abuser/1061691001/. See also Eric Levenson and Ellie Kaufman, "She's the judge these Larry Nassar victims needed." *CNN,* January 18, 2018, https://www.cnn.com/2018/01/17/us/larry-nassar-judge-sentencing/index.html.

been sentenced to three 20-year prison sentences on charges of child pornography.[38] The possibility of his going unpunished – or else, given a slap on the wrist like Miller's rapist – was not a concern. Aquilina's insistence on each and every one of his victims' right to public appearance and speech—despite Nassar's plea that statements stop—sought to restore the agency stripped of them by the psychological and emotional effects of trauma and institutional betrayal. All this, with the weight of numbers, the media, and the broader American public behind them.

The sentencing hearing was unique for the sheer number of victims and family members allowed to deliver their victim impact statements at court (in total, 204). Attorney John Manly, who represented a large share of the Nassar victims, said of it that it was "the most incredible thing [he'd] seen as a lawyer," indeed, "the most incredible thing [he'd] seen in [his] life."[39] Each story was heard and powerfully articulated; what each shared in common was the way it laid bare the devastating ways childhood sexual abuse continued to bear on victims' lives in the present. Yet the significant feat that these women were able to find common cause, and one another,[40] at all – an accomplishment indebted to the reporters at the *Indianapolis Star* as well as to the #MeToo

[38] In November of 2017, he pleaded guilty to the charges of Receipt and Attempted Receipt of Child Pornography, Possession of Child Pornography, and Destruction and Concealment of Records and Tangible Objects. He was convicted of these same charges on December 7, 2017. District Court Judge for the United States District Court for the Western District of Michigan, Janet T. Neff, sentenced him to three twenty-year sentences to be served consecutively. Today, Nassar is not yet serving the 175-year sentence for criminal sexual conduct with minors that Judge Aquilina meted out to him in January 2020. He is serving the 60-year sentence in federal prison on child pornography charges imposed by Grand Rapids District Judge Janet Neff – a sentence that goes beyond guidelines for such acts that typically call for 20 years in prison.

[39] *Athlete A*.

[40] The U.S. criminal justice system, as it stands, has no procedures or guidelines in place to put survivors of the same perpetrator in touch with one another. While some of Nassar's victims were Olympic gymnasts and knew one another well, many were amateur gymnasts from around the country.

movement[41] – was blunted by abolitionists' criticisms of the kind of public speech facilitated by the hearing, the harsh sentence laid down by Judge Aquilina, and the kind of women whose speech was garnering national attention.[42]

**#MeToo, Abolition, and Feminism's Contested Public Sphere**

In its extra-ordinariness among criminal cases of sexual harm and abuse, then, but also in the context of a moment in which, as Davis et al. explain, "#MeToo/TimesUP and #DefundPolice propelled enormous and widely divergent cultural and political shifts," the Nassar case brought to light what I am calling *feminism's contested public sphere.*[43] In the U.S., the #MeToo movement's revival dovetailed with the emergence of nation-wide protests against racism, which arose on the heels of the publicized police killings of Black people. BLM begat a growing sense among political theorists and activists alike that the legal system—were it to play a role in intersectional feminist liberation at all—would need to be radically transformed.[44] #MeToo's emergence into the public sphere by way of the criminal allegations brought against Weinstein led it to appear incongruent

[41] Olympic gold medalist Simone Biles was among those who came forward, posting to Twitter with the hashtag #MeToo. Simone Biles (@Simone_Biles), "Feelings…#MeToo," Twitter, January 15, 2018, https://twitter.com/Simone_Biles/status/953014513837715457.
[42] It is notable that nearly every long-form critical account of #MeToo begins with a brief discussion of Nassar's sentencing by Aquilina. See, Wypijewski, *What We Don't Talk About*; Levine and Meiners, *The Feminist and the Sex Offender*; Phipps, *Me, Not You*. To my knowledge, the case has only received serious scholarly treatment in law review journals and has otherwise been dismissed as a parodic display of the limitations of white feminism. Situating it in the context of the Brock Turner sentencing, I attempt to treat it as significant not only in its innovative use of legal instruments but as a product of a political development in a moment of democratic contestation (#metoo) in which norms were being re-drawn.
[43] Davis et al., *Abolition. Feminism. Now.,* 169.
[44] Charlene Carruthers, *Unapologetic: A Black, Queer, and Feminist Mandate for Radical Movements* (Boston, MA: Beacon Press, 2018).

with the shift in commonsense away from the legal system occasioned by the insights of movements like BLM.[45]

Could #MeToo be seen as a feminist movement at all, abolitionist feminists asked, if its participants did not critically interrogate the harmful consequences of survivors' implicit legitimation of the carceral state? In what follows, I outline the abolitionist critique of purportedly feminist celebrations of Judge Aquilina's role in the Nassar case, bringing to light a tension between feminists as to the political value of "speaking out" and "scaling up."[46] Rather than critique the community-based processes of accountability that have become a hallmark of abolitionist feminist praxis, I ask after what is lost for feminism as a political practice if it displaces from centrality what Zerilli calls "the world-transforming power of political association and speech."[47] The contested question in contemporary feminism is whether the "obligation to risk the impurities of politics on behalf of transformation," to recall Honig, ought to override concerns about exclusion that attend practices of speaking out and scaling up.

Divergent perceptions of Nassar's sentencing hearing made this contested question clear. Put simply, what to some was a #MeToo success story was, to others, nothing short of a farce. In the eyes of some feminist critics, the Nassar sentencing was evidence of a nefarious sex panic being brought about by the #MeToo movement.[48] Critiques were mounted at the level of publicity granted to the survivors of Nassar's abuse, at the celebratory tone on Twitter and other social media platforms that met news of his sentencing by Aquilina to upwards of 150 years in prison, and more

[45] Deva Woodly, *The Politics of Common Sense: How Social Movements Use Public Discourse to Change Politics and Win Acceptance* (New York, NY: Oxford University Press, 2015).
[46] Davis et al., *Abolition. Feminism. Now.,* 92, 129.
[47] Zerilli, *Feminism and the Abyss of Freedom,* 23.
[48] Wypijewski, *What We Don't Talk About.*

broadly, at the background conditions of white supremacist culture.[49] In this culture, white women's tears have historically been, and continue to be, writes Alison Phipps, "tools of oppression" that are "used to justify violence against marginalized communities."[50] The Nassar case was no feminist victory, on this view, but merely further proof of #MeToo's "political whiteness"[51] and of the law as a dead end for feminist politics.

Not all feminists shared this view. Writing for *CNN.com,* Peggy Drexler, by contrast, stressed that the "very public nature of the resolution of this case was, of course, key. In establishing her courtroom as a safe place for victims to come forward," Drexler wrote, "Aquilina forced not only Larry Nassar, but the world, to listen to them."[52] Where some saw in the televised sentencing hearing a reproduction of existing inequalities, in other words, others saw a moment of their contestation. Speaking in public as a survivor was deemed a radical act in and of itself. To speak with Lorna Finlayson, this position held that the act of "talking about certain subjects *at all* – or of doing so as a woman – is as significant as what it is that is said."[53] On this analysis, public speech is itself a political practice whose meaning cannot be reduced to the contents of speech but can only be discerned from contextually situated analysis. By appearing unapologetically in a

[49] Jamilah Lemieux, "Weinstein, White Tears and the Boundaries of Black Women's Empathy." *Cassiuslife.com*. November 2, 2017. https://cassiuslife.com/33564/white-women-dont-look-out-for-black-victims/

[50] Alison Phipps, *Me, Not You: The Trouble with Mainstream Feminism* (Manchester, UK: Manchester University Press, 2020), 10.

[51] Alison Phipps, "The Political Whiteness of #MeToo." *Redpepper.org.uk*. June 4, 2019. https://www.redpepper.org.uk/the-political-whiteness-of-metoo/

[52] Peggy Drexler, "With Nassar Judge, Victims Get Their Avenging Angel," *CNN*, January 25, 2018, https://www.cnn.com/2018/01/24/opinions/with-nassar-judge-victims-get-their-avenging-angel-drexler/index.html.

[53] Lorna Finlayson, "An Interview with Dr. Lorna Finlayson." *Oxford Political Review,* November 2, 2021, http://oxfordpoliticalreview.com/2021/11/02/dr-lorna-finlayson/.

space historically premised upon their silence, in other words, survivors seemed to lay bare rather than legitimate the conditions of their exclusion.

For their part, abolitionist feminists did not share this view of the democratic value of victims' public speech and appearance in court. Mariame Kaba and Kelly Hayes challenged celebrations of Aquilina's courtroom as being a space of transformative justice, in particular. A truly transformative vision of justice, they wrote in an op-ed on the heels of Nassar's sentencing, "looks nothing like the civil death that Aquilina delivered" onto Nassar. While transformative justice depends on their view on the abolition of prisons and policing, they state that it is "possible, but it will not be televised, and it will not be facilitated by the likes of Judge Rosemarie Aquilina."[54] Kaba and Hayes lamented that,

> Amid our society's current cultural upheaval around sexual violence, Aquilina struck a chord with many survivors who want and need to believe justice under this system is possible. By offering the mic to survivors and by aiming violent, vindictive language at a widely loathed defendant, Aquilina has been rewarded with the status of an instant icon.[55]

That hundreds of young women were given the opportunity to confront their abuser could not be divorced, on this view, from the context of a criminal legal system predicated upon gendered and racialized forms of injustice. Yet what I am calling feminism's contested public sphere had to do, in the context of the Nassar case and the broader #MeToo moment, not only with how feminists approached the place of the legal system in politics. It had further to do with feminists' judgments as to whether public practices of speech and accusation on the part of survivors of sexual harm was a viable political strategy for an inclusive feminist politics today.

---

[54] Kelly Hayes and Mariame Kaba, "The Sentencing of Larry Nassar was Not 'Transformative Justice.' Here's Why." *The Appeal,* February 5, 2018. https://theappeal.org/the-sentencing-of-larry-nassar-was-not-transformative-justice-here-s-why-a2ea323a6645/.

[55] Kaba et al., *We Do This 'Til We Free Us,* 58.

In their *Abolition.Feminism.Now,* Davis et al. allude to how feminist speak-outs and consciousness-raising strategies of breaking the silence around domestic violence and abuse were primarily associated with white feminism.[56] Absent explicit linkages to other social justice struggles, these authors imply, the public speech of survivors of sexual violence poses too great a risk of reproducing existing racial inequalities rather than upending them. This worry has a long historical lineage in the U.S., and is rooted in close studies of 20th century U.S. feminism's shift from building autonomous, grassroots power toward forming alliances with various wings of the state in particular.[57] One aspect of feminism's contested public sphere, then, is a worry about partial political claims being mistaken for representative ones, thereby further entrenching existing social hierarchies along lines of race, class, disability, gender identity, and sexuality. As Linda Martín Alcoff puts this worry about practices of speaking out, the question is whether survivors' "speech [has] become so co-opted and domesticated that its subversive impact has been seriously

[56] Davis et al., *Abolition. Feminism. Now.*, 92.

[57] Scholars such as Beth Richie and Kristin Bumiller deftly track how the movement's alliances with the state and its usages of such rhetoric in the context of a "society positioned for war" had the effect of enabling "something far more significant than unintended consequences", something better described as feminism's "joining of forces with a neoliberal project of social control." While neither Richie's nor Bumiller's studies are intended to place sole responsibility for the ills of mass incarceration on mainstream feminist rhetoric, the latter in particular does seek to emphasize that, "[w]ithin mainstream feminism and its activist organizations," there has been too little "critical reflection about how feminists pose sexual violence as a "social problem."" Bumiller emphasizes how "early [feminist] efforts to make clear that rape, battering, and other forms of sexual abuse are "violence" and "not sex"" led to "entrenched understandings of the causes of violence, the social dynamics of racism and gender, and the potential solutions" to a problem that was improperly diagnosed, as if violence against women could be singled out as a specific issue for policymaking. See Kristin Bumiller, *In an Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence* (Durham, NC: Duke University Press, 2008), xii, 19, 15, xiv-xv; Beth E. Richie, *Arrested Justice: Black Women, Violence, and America's Prison Nation* (New York, NY: New York University Press, 2012); Emily L. Thuma, *All Our Trials: Prisons, Policing, and the Feminist Fight to End Violence* (Champaign, IL: University of Illinois Press, 2019).

diminished," or whether it still carries the potential to transform the context in which it is uttered.[58] On my analysis of the abolitionist feminist position, the answer to Alcoff's question is a yes. But Kaba and Hayes' opinion piece on the heels of Nassar's sentencing spoke to yet another aspect of feminism's contested public sphere. This has to do less with political strategy and to do instead with a deeper contest over the meanings of both accountability and of punishment. As alluded to above, these worries are shared by liberal critics of #MeToo such as Nussbaum.

Feminists disagree about the extent to which practices of public accusation are retributive. Abolitionists like Carruthers argue that they are too beholden to carceral logics—a point that may be contested by historical examples of abolitionist anti-rape groups like Santa Cruz Women Against Rape, who were advocates of confronting rapists and printing their descriptions in public, even while they remained committed to prison abolition.[59] On my view as well as on theirs, such practices can effectively function as a bulwark against the perpetuation of gendered abuses of power. On this view of the value of public speech, Nassar's survivors' speech acts can be read as potentially creating the political conditions in which the first victim who came forward would have been believed in the first place.[60] This goal is shared by abolitionists. Writes Kaba, "a truly transformative justice would mean that a single survivor coming forward to tell their tale of harm

---

[58] Linda Martín Alcoff, *Rape and Resistance: Understanding the Complexities of Sexual Violation* (Cambridge, UK: Polity Press, 2018), 183.

[59] Robin McDuff, Deanne Pernell, and Karen Saunders [1977], "Open Letter to the Anti-Rape Movement," reprinted in 2020, https://issuu.com/projectnia/docs/letter-to-the-antirape-movement.

[60] "Believe women" has come to be something of a shorthand for the most recent wave of feminist anti-violence discourse and activism in the U.S. Indeed, #believewomen often appears alongside posts to social media with the hashtag #metoo. If the slogan itself and the kind of politics it tends to occasion may be rightly criticized for resting on an over-simplified analysis of patriarchy, it has successfully gained traction because it succinctly captures part of the cultural problem that attends women's public speech. Gendered stereotypes about women's propensity to either deceive or to exaggerate inform judgments as to their rhetorical fitness and credibility. This problem is compounded when women report their experience of sexual harms.

years ago would actually have been believed (the first time)."[61] Why then was Aquilina's court room not seen as serving, if in an admittedly compromised way, this feminist goal? Was there no glimpse of accountability to be seen in this event of public survivor speech?

The consequences of this event of women's expression of their justice-claims continue to reverberate. While Nassar has been sentenced to life in prison, Steven Penny, the former President of USAG, has been indicted on charges of tampering with evidence related to the Nassar case, to which he has plead not guilty. Penny was forced to resign from his position as president of USAG in 2017 and in the summer of 2018, he was subpoenaed to appear before a hearing in the United States Senate on the issue of Olympic abuse. In May of that same year, MSU, which employed Nassar for 19 years, reached a $500 million settlement with survivors of Nassar's abuse, which "included $425 million in payouts to claimants and $75 million put into a trust to protect future claimants alleging sexual abuse by Nassar."[62]

Beyond additional criminal charges and payouts, at the time of this writing, a body comprised of medical professionals, lawyers, child advocates, and attorneys called the Game Over Commission has just (January 2022) released its final report on the Nassar and USAG abuse scandal, based upon three years of fact-finding and additional hearings from gymnasts and other relevant experts and policy-makers.[63] These additional hearings were part of its task of assembling a report of exactly what happened in the Nassar case, to ensure nothing like it happens again. Chaired by CEO of Child USA and Professor of Practice at the University of Pennsylvania Marci

[61] Kaba et al., *We Do This 'Til We Free Us,* 59.
[62] Adam Wells "Larry Nassar Survivors Offered Settlements Between $83k and $1.25M from USAG." *Bleacher Report*, February 22, 2020. https://bleacherreport.com/articles/2877488-larry-nassar-survivors-offered-between-83k-and-125m-settlements-from-usag.
[63] CHILD USA (2022). *"I believe competitive gymnastics and other elite sports break children." A Case-Study of Systematic Abuse in Sports Perpetrated by Larry Nassar.*

P. Hamilton, the Commission was assembled to produce a report that details what policies, norms, and labor practices contributed to this betrayal of gymnasts.[64] Unlike the sentencing hearing, the objects of the commission's concern extend beyond the actions of individuals. Indeed, Game Over hearings have focused in detail on the exploitative conditions imposed upon young gymnasts.

When asked by the Executive Director of the National Children's Alliance and member of the Commission Teresa Huizar whether child sport was salvageable, former elite gymnast and Nassar survivor Megan Halicek simply said 'No.' In her testimony on the first day of the Commission's hearings in November of 2019, she explained that elite sports like gymnastics break children by means of mental, emotional, and physical abuse, continuing on to remark that sexual abuse is the least surprising thing that could happen in this environment.[65] These structural conditions have been indicted as unjust by way of a public process that is decidedly divorced from the carceral regime—even if it was spurred on by the voices of women that appeared in public in the context of a sentencing hearing.

While the sentencing hearings I describe in what follows centered on Nassar's sexual abuse, they established the groundwork for this broader conversation about the ethics of children's participation in competitive sport. The Commission addressed the more systemic and institutional questions illuminated by gymnasts' statements at the sentencing hearing. In the Nassar case, this accountability could not have been achieved by a community-based process—as mentioned above, his abuse spanned the level of municipality, professional organization, and university. My analysis

[64] Admittedly, similar policy-oriented bodies rarely come to exist in the case of sexual violence experienced by less privileged individuals, especially after a trial has been completed or a sentence laid down.

[65] CHILD USA (2022). *"I believe competitive gymnastics and other elite sports break children." A Case-Study of Systematic Abuse in Sports Perpetrated by Larry Nassar.*

of the VIS delivered at his sentencing in what follows therefore interprets them as part of an 'arc of refusal' inaugurated by #MeToo's resurgence in the public sphere and continuing on in 2022—a refusal made possible by the public practices of 'speaking out' and 'scaling up' of which abolitionist feminists are so wary. In the next section, I suggest that closer attention to the speech acts facilitated by Aquilina allows us to see how accountability emerges from practices of collective appearance even when these take place at the bounds of the legal system.

**Agonism, Law, and the Politics of Public Speech**

*Judge, the first victim will be publicly identified, and her name is Ms. Kyle Stephens … Judge, our next victim is a minor. She has indicated that she wishes to be public. She is currently 17 years old … Judge, the next victim is a minor and she does wish to be identified publicly … Judge, the next speaker will be Alexis Moore, and she is an adult, and she has decided to be publicly identified.* Over the course of seven days in January of 2018, this is how then Assistant Attorney General of the State of Michigan Angela Povilaitis introduced 156 young women. After each victim of Nassar's abuse was introduced by Povilaitis, Judge Aquilina, presiding over the man's sentencing, would sometimes confirm the spelling of their names or otherwise assure their legal guardians' consent to let them speak. With these formalities out of the way, she would sometimes continue to say *Thank you, you may proceed*. In other instances, she asked *What is it you would like this court to know?* In still yet others, Aquilina would instruct the woman at the stand, *I need a nice loud voice. If you have one of those timid voices, I need you to be heard. That's why you're here*. The judge positioned her courtroom as a space in which these women's voices would be honored, heard, and respected.

If some of her more furious remarks to victims—as, for instance, *the monster who took advantage of you is going to whither*—provoked liberals' shock and abolitionists' disdain, viewers of the event could see the importance of the man's presence wax and wane during the days-long hearing. Where some survivors found catharsis in addressing Nassar directly and with anger, others defined their addressees otherwise, the women speaking through tears to one another, or else to the broader community of survivors brought out of the shadows by #MeToo. Where abolitionist feminists dismissed this event as politically insignificant at best, and politically pernicious, at worst, I advance an agonistic reading of Nassar's victims speech acts as having a performative function. Their words punctured, if only slightly, the pervasive and normalized discursive conditions through which victims are routinely dismissed as authoritative speakers.

In doing so, I treat the court of law agonistically, that is, as a site not only of domination and exclusion but of political contestation and meaning-making. Agonism, from the Greek term *agon,* Honig explains, "affirm[s] the reality of perpetual contest" in democratic life.[66] What agonism sees, contra rationalist and deliberative models of democratic life, is that "the always imperfect closure of political space tends to engender remainders."[67] The recognition of those remainders leads agonists "to treat rights and law as part of a political contest rather than as instruments of its closure."[68] To read the Nassar case as an instance of political contest, rather than a mere repetition and amplification of existing inequalities by legal means, is thus to re-center the relationship between law and politics that abolitionist criticisms of the case have obscured. It is also and at the same time to attend to the juridical mechanism—the VIS—by which survivors'

[66] Honig, *Political Theory and the Displacement of Politics*, 15.
[67] Honig, *Political Theory and the Displacement of Politics,* 15.
[68] Honig, *Political Theory and the Displacement of Politics,* 15.

voices came to be heard at Nassar's sentencing in the first place. In many respects, VIS are antithetical to the adversarial nature of legal proceedings. They allow the "otherwise silenced victim to tell [her] story" in a context whose boundaries are presmised upon that story's suppression—in this respect, the VIS is a kind of remainder in and of itself.[69]

As alluded to above, the VIS is a contested genre. VIS have been rightly criticized by feminists on the basis of their historical emergence from the Victims' Rights Movement—itself a complex and internally divided constellation of conservative, feminist, and even racist and anti-feminist voices alike.[70] Despite this historical provenance, VIS can on my view be seen as reminders of what remains despite law's attempts at enclosure. This is because they seek to bring to the rationalism of law that which it has positioned itself to overcome: the voice of the aggrieved person, which Shklar reminds us, is especially important in democratic politics. In the context of sexual violence trials, VIS ought to be seen as giving representation to the voice of the disappointed, betrayed, and angry person. This voice, writes Shklar, "is especially significant" because, often, "the broken promises of officials may well be acts of public wrongdoing, denials of recognized rights, or general failures to perform civic duties."[71] While Shklar is critical of liberal legalism, her remarks here stress the civic and democratic importance of listening to victims. These individuals' personal expressions of their sense of injustice are on her view uniquely capable of bringing to light failures and betrayals that are sown in to the fabric of, rather than epiphenomenal to, democratic institutions that, in some cases, purport to guard against the very harms they themselves are enacting. Their narratives have a democratic function, in other words, that exceeds

[69] Bandes, "Empathy, Narrative, and Victim Impact Statements," 405.
[70] Carrie Rentschler, *Second Wounds: Victims' Rights and the Media in the U.S* (Durham, NC: Duke University Press, 2011).
[71] Shklar, *The Faces of Injustice*, 108.

whatever therapeutic effects they may bring about on the level of the individual and her psyche. They make the personal (a broken promise) legible as political (a public wrongdoing).

This view of VIS is controversial. For Bandes, among other critics, VIS are decidedly anti-democratic, especially when allowed in the criminal sentencing portion of violent crimes. The normalization of victim impact statements at criminal trials (48 states in the U.S. give victims the right to be heard in some form or another at sentencing) has raised profound questions about the proper scope and function of the law and of courts. In legal circles, the debate has centered around the issues of fairness that are raised by judges' and jurors' unmediated access to victim's voices.[72] Should something as weighty as a criminal sentence be left up to the ability of jurors to empathize, or not, with a victim? Does the possibility that jurors and judges will empathize with victims risk blocking their "ability to perceive the essential humanity of the defendant," asks Bandes?[73] Similar worries frame the feminist debate about victim impact statements. Feminist scholars and activists alike are concerned that these statements merely construct a façade of appeasing victims, all the while legitimating the carceral state and leaving too much room for juror bias.[74] Rather than a normative defense of VIS or of the criminal legal system, I follow Erin Sheley in suggesting that VIS not be assessed so narrowly, that is, as if they only concern three parties (the victim, the

[72] See Paul Gerwitz, "Victims and Voyeurs at the Criminal Trial," *Northwestern University Law Review* 90, no. 3 (1996): 863-897; Paul Cassell, "In Defense of Victim Impact Statements," *Ohio State Journal of Criminal Law* 6, no. 2 (2009): 611-649; Erin Sheley, "Victim Impact Statements and Expressive Punishment in the Age of Social Media," *Wake Forest Law Review* 52, no. 1 (2017): 157-192; Tracy Booth, *Accommodating Justice: Victim Impact Statements in the Sentencing Process* (Annandale, New South Wales: The Federation Press, 2016).
[73] Bandes, "Empathy, Narrative, and Victim Impact Statements," 366.
[74] Rakhi Ruparella, "All That Glitters is Not Gold: The False Promise of Victim Impact Statements" in *Sexual Assault in Canada: law, legal practice, and women's activism.* ed Elizabeth A. Sheehy (Ottawa, ON: University of Ottawa Press, 2012), 665-670.

defendant, and the state) that have been determined in advance. In the age of social media, explains Sheley, it is important to recognize that

> The stories of the victims and defendants already circulate through society outside of the courtroom […and so] if the sentencing process cannot accommodate the stories of actual harm to individual victims it runs the risk of (a) coming to be viewed as illegitimate to a society guided by [a given set of] norms, or (b) allowing free reign for generic representations of criminal harm produced by political and media actors to take the place of individuated victim accounts […]

Expanding the scope of the addresses to whom a VIS is directed allows us to see how the individual accounts of harm they recount may greatly differ from, and even serve to challenge, harmful and reductive media-generated representations of victims and sexual abuse alike.[75] Taking a wider view of the VIS as having a performative function—Sheley would say an expressive one—in society that exceeds a given courtroom's chambers allows us to re-frame much of the legal debate about VIS, which has centered largely on what is internal to the courtroom.

"For many," explains Paul Gerwitz, "substituting the state for the victim in prosecuting crime is a great achievement," for it "keeps at bay the immediate passions of an injured victim, especially unmediated revenge." [76] From the standpoint of legalism, it is the *absence* rather than the presence of the victim at trial that "transforms a private vendetta into a public concern."[77] Considered in isolation from the society in which they circulate, that is, from the legalistic point of view, VIS can only be seen as either relevant or irrelevant evidence, else, as evidence that threatens legal impartiality, whether relevant or not. Although there are variations in the instructions given to victims preparing these statements and to the way that state and local

[75] Erin Sheley, "Reverberations of the Victim's 'Voice': Victim Impact Statements and the Cultural Project of Punishment," *Indiana Law Journal* 87, no. 3 (2012): 1247-1286, 1249.
[76] Gerwitz, "Victims and Voyeurs," 865.
[77] Gerwitz, "Victims and Voyeurs," 865.

jurisdictions understand their role, jurisdictions agree on the basic definition of a VIS: "an account of the harm sustained by the victim as a result of the offence."[78] Critics of these VIS take them to be irrelevant to legal determinations of the seriousness of the offence and the determination of a penalty. Advocates of VIS, on the other hand, challenge the criteria of relevance upon which these criticisms are based. This contest dates to their emergence as a juridical mechanism.

The U.S. Supreme Court's decision in *Booth v. Maryland* (1987), for instance, was decided in favor of the rights of the accused not to be judged with reference to the contents of a VIS. It sought to restore a balance of power between accused individuals and the state. Justice John Powell delivered the majority opinion in *Booth*, in which the court's reasoning rested on the question of whether "the emotional trauma suffered by the family and the personal characteristics of the victims" constituted admissible evidence to a jury's decision as to the accused's life or death. The State argued that it "should be considered a "circumstance" of the crime because it reveals the full extent of the harm caused by Booth's actions" and so that it was not ""arbitrary" for the jury to consider these consequences in deciding whether to impose the death penalty."[79] In *Booth,* the Court conceded that "the full range of foreseeable consequences of a defendant's actions may be relevant in other criminal and civil contexts," but not in cases of capital sentencing. The severity of the punishment being considered was thus an important factor in their decision but was not the sole basis of their reasoning. More significant was the concern that judgments as to the punishment fitting a crime must, for reasons of impartiality and fairness, be restricted to a consideration of the defendant's character, possible motives, and actions, and not that of his victims. On one hand, there are good feminist reasons to want judgments as to punishment not to rely on the perceived

[78] Booth, *Accommodating Justice,* 2.
[79] U.S. Supreme Court Reporter*, Booth v. Maryland*, 503 (1987).

characteristics of victims. In a radically unequal society, not all victims, nor defendants, are perceived as equally worthy.

Yet in the context of the Nassar case, situated as it was in a society shaken in profound ways by #MeToo's challenge to the relationship between public and private, the legal question of whether the defendant in fact possessed knowledge of the probable consequences of his actions can and ought to be weighed against the *political* question of whether we are as a society are willing to consider the consequences for women of Nassar's actions merely circumstantial to a judgment of his actions. Political questions such as these went into the court's decision in *Payne v. Tennessee* (1991), which overturned *Booth* and defended the permissibility of VIS at sentencing. In *Payne,* the court decided that the trauma suffered by the victims' family was admissible evidence insofar as the accused's actions could not be understood without its due appreciation. The *Payne* decision was, to the Victim's Rights Movement, a victory—one that would eventually set precedent for something like the Nassar hearing to take place.

In this latter space and context, the notion of valuation – of affirming survivors experiences and their worth and complexity as individuals – was constitutive of the work of redress the sentencing hearing tried to accomplish. Even if we concede that what took place was only possible thanks to the case's handling by the sympathetic Aquilina, the chorus of televised VIS had a performative function. It showcased the complexity of the harm of sexual violence in a way that challenged conventional scripts or definitions of victimhood and of sexual abuse itself. Indeed, the most powerful moments of the hearing took place when individual accounts of harm – what the VIS is supposed to provide to a jury or sentencing authority – slipped out of the evidentiary terrain they are typically confined to. When gymnasts spoke to the political, rather than strictly legal, crimes of institutional betrayal and exploitation, their speech functioned agonistically to alter the

very terrain of its reception. They gave public and political meaning to injustices that might otherwise be understood in individualizing terms. To recall Shklar, broken promises and broken trust came be to legible as acts of public wrongdoing.

The VIS in the Nassar case pushed up against the limits of the kinds of speech that can be heard in the context of a criminal proceeding. In their testimonies, women invoked former Olympics team coach John Geddert, USAG, USOC, and other institutions when they used the language of abuse in particular. Direct mentions of Geddert were present in many of the victims' VIS, with one survivor, Izzy Hutchins, going so far as to call Geddert and Nassar a "dynamic duo."[80] A corpus-based discourse analysis of the statements conducted by Jamie R. Abrams and Amanda Potts shows that while mentions of the term abuse were frequent (461 mentions), they were highly varied, and referred often to abuses of power and trust *at the same time* that they referred to sexual and physical abuse.[81] In other words, survivors stressed their inability to separate individual experiences of harm at Nassar's hands from institutional critique.

Thanks to Aquilina and to the background conditions of contestation sparked by #MeToo, survivors seemed to take the opportunity to emphasize how institutions, individuals, and power structures other than Nassar were complicit in his crimes. "Complicity," explains criminal defense attorney Caroline Polisi, is "not a crime per se in our criminal justice system. It therefore occupies

[80] "'My Voice Matters': The Survivors of Larry Nassar, In Their Own Words," *Glamour.com,* February 6, 2018, https://www.glamour.com/story/the-survivors-of-larry-nassar-in-their-own-words.

[81] Jamie R. Abrams and Amanda Potts, "The Language of Harm: What the Nassar Victim Impact Statements Reveal About Abuse and Accountability," *University of Pittsburgh Law Review* 82, no. 1 (2020): 71-134.

a slippery space in our collective understanding of accountability."[82] Survivors who pointed to complicity thus invoked political rather than legal norms. In her VIS, for instance, gymnast Aly Raisman charged that USAG was "rotting from the inside," that is, profiting off her success while ignoring her suffering. Gymnast McKayla Maroney, too, emphasized how Nassar's actions could not be viewed in isolation of the culture of exploitation enabled by the national gymnastics establishment. To the question of how Nassar's assaults could possibly have continued for so long, Maroney responded,

> The answer […] lies in the failure of not one, but three major institutions to stop him—Michigan State University, USA Gymnastics and the United States Olympic Committee […] It is time to hold the leadership [of these institutions] accountable for allowing, and in some cases enabling, his crimes.[83]

Contrary to the feminist worry that VIS merely construct a façade of appeasing victims, here, victims used the VIS to amplify their fury. Indeed, these women seemed well aware that the injustice they sought to name did not end with Nassar, and they spoke with the knowledge that the condition of possibility of their public speech was a legal settlement. In exchange for the VIS, the prosecution dropped felony charges against Nassar on counts of international sex trafficking, which would have opened up the USOC to liability. While some of the statements may have been therapeutic to victims, the effect of their public articulation exceeded the goal of individual healing. This instance of speaking out and scaling up was more transformative.

If feminist critics of VIS worry that they reinforce the dichotomy between victim and perpetrator, these statements might instead be seen as troubling that dichotomy and exposing its

---

[82] Caroline Polisi, "How Larry Nassar got away with it for so long," *CNN.com,* January 25, 2018, https://www.cnn.com/2018/01/22/opinions/nassar-institutional-liability-opinion-polisi/index.html.
[83] "My Voice Matters."

limitations. The many women who spoke at Nassar's sentencing fumbled about, naming one person here, another institution there. When survivors spoke of their experiences they named structural betrayal. These words gave political content to individual experiences. The political content they expressed begins to gesture at a more capacious understanding of redress – one emerging from a collective experience of betrayal – than can be achieved by litigation. This chorus of VIS was a claim to political accountability, rather than legal redress. By being given the chance to express their many and varied grievances by Aquilina, the political content of these gymnasts' personal experiences was illuminated: at issue in their speech acts was not just individual harm, but the broader problems of institutional complicity and the exploitative nature of gymnastics as an industry. In her statement, Alexis Moore stated that "sexual offenders need to know that they cannot continue with the crimes they are committing, and no matter how long it takes for a survivor to come forward, their crimes will be exposed."[84] Moore stressed the political stakes of her public speech, contesting the norms surrounding her own case as well as the countless others exposed by way of the #MeToo movement. Her speech act served both as evidence of a harm (what the VIS typically is meant to provide) and, performatively, as a warning to a broader patriarchal status quo.

By invoking political rather than legal norms in their statements, survivors altered the terrain of their voices' reception beyond the courtroom and into the broader democratic public sphere. That they did so in hundreds is perhaps equally significant, as the repetition of their claims, enabled by Aquilina, led to democratic judgments as to the necessity of instituting reforms in professional gymnastics, child sport, and medicine altogether. The Game Over Commission's recent report, alluded to above, may have transformative effects on the gymnastics industry.

[84] "My Voice Matters."

Among the Commission's key finds are that "the economic system for elite athletes and Olympic sports makes athletes vulnerable to exploitation and abuse," and further that "the legal system failed to deter abuse and blocked access to justice" in the Nassar case.[85] Whether its recommendations to prevent abuse in athletics will be put into place remains to be seen, but its findings are damning.

**Conclusion: Scaling Up and Speaking Out**

My analysis of the Nassar case suggests that survivors' public speech has the potential to be transformative even when it sits at the bounds of law, whose individualizing mechanisms, like the VIS itself, tend to foreclose political insights into the public character of gendered relations of power. This political insight is obscured when abolition feminists that are wary of practices of scaling up dismiss events such as the Nassar hearing as insignificant or deleterious to feminism, or else, when the law is viewed in isolation from the society in which it operates. Where Davis et al. charge practices of scaling up with being "predicated on sameness and often eradicating difference,"[86] I argued that might instead see in them the promise, as well as the risk, inherent in all political speech and action. To speak and act politically is necessarily to risk the eradication of difference, because to do so is to advance a perspective. Speaking politically is a risk, explains Zerilli, because of the "fundamentally anticipatory structure of political claims," which can always fail or misfire.[87]

[85] CHILD USA (2022). *"I believe competitive gymnastics and other elite sports break children." A Case-Study of Systematic Abuse in Sports Perpetrated by Larry Nassar.*
[86] Davis et al., *Abolition. Feminism. Now.*, 129.
[87] Zerilli, *Feminism and the Abyss of Freedom,* 173.

In my reading of the Nassar case, and subsequently of #MeToo, the multiplication of survivors' justice-claims enabled each to carry the potential for difference, rather than sameness, to emerge. The practice of iteration – of gymnasts each referring to individual experiences even as they sought to name a common problem, each time, in their own words – altered the substance of their collective political claim such that both the victim/speaker and perpetrator/audience were defined anew. Central to the task of achieving public justice for women and other feminized groups—to the feminist politics of change—are public practices of speech and of collective appearance without which the personal does not become political in the first place. An agonistic view of the politics of public speech presses us to remain cognizant of the groundlessness and contingency that subtends our divisions of the world – into public and private, into those that are guilty and those that are innocent – while insisting that decisions must be made in public. For only in the presence of others do these judgments come to take on the quality of motive forces, shaping future decisions as to what is and is not possible, and what is and is not permissible. *What is it you would like this court to hear?* Herein lies the risk, but also the promise, of politics.

This chapter has not shied away from the fact that women's use of the VIS at Nassar's sentencing was an instance of "the impurities of politics" gestured at by Honig. I noted both the conservative roots of VIS and their potential to serve unjust ends in the hands of biased jurors and judges. Yet I suggested, with Sheley and Honig, that a perspective on law that sees it in a broader nexus of contestation allows us to see how VIS can challenge the very discursive conditions in which women are routinely disbelieved or their claims characterized as vindictive—at least in some cases. If survivors were by and large applauded for their bravery in speaking out, Judge Aquilina did not fare so well. Aquilina was no Athena, and the unseemliness ascribed to her support and encouragement of victims was not without cost. What did her willingness to stand

with victims prove? Why, to recall Marx, that the demon of #MeToo changed this woman into a Fury! Nassar himself said of her manner of conducting the sentencing hearings that it stood as testament to the old adage that "Hell hath no fury like a woman scorned."

Indeed, that she took the risk is but one of the ways that the Nassar sentencing was extra-ordinary. While I have sought to bring to light this event's political substance, which was elided by abolitionists and liberals alike, I do not claim that through it, justice has been done. What I hope to have illuminated, however, is that feminism does itself a disservice when it dismisses survivors' use of the legal system as too impure to be of much political use. Strategies of 'speaking out' and 'scaling up' may intersect with the criminal legal system, but they ought not for that fact be charged with being predicated on sameness or eradicating difference—that is, as anti-political. Such dismissals do a disservice to what Zerilli calls the "world-transforming potential" of speech, as well as to the betrayed themselves, who are more often than not under no illusions that justice will be found at court. Reading each speech act and the ensemble of speech acts performatively allows us to see how claim by claim, accusation by accusation, they may amount to a transformation of the very nature of the public in which they are uttered—towards one in which the first victim who came forward would have been believed the first time.

*Me too, Me too, Me too…*

## Chapter 5. CONCLUSION
## Towards a Feminist Political Theory of Vengeance

In the television adaptation (2018-) of Margaret Atwood's dystopian novel, *The Handmaid's Tale* (1985), the protagonist June has crossed the border to Canada—a haven for women, like her, who have been forcibly assigned to produce children for a ruling class of men in the patriarchal, totalitarian Republic of Gilead that has overthrown the U.S. Government. Upon her entry to Canada, June delivers a powerful VIS to the International Criminal Court in which she recounts the horrors wrought upon women in Gilead. Later that day, she attends a support group for former handmaids. Her presence encourages a shift in the tenor of the women's conversation. Departing from the language of pain and trauma typically encouraged there, they begin to graphically describe their anger and fantasies of revenge. Moira, the leader of the group, puts an end to what she takes to be a counter-productive turn in the meeting's tone. "Anger is a valid emotion," she avows, "it's necessary, important, even, to heal. But we can't live there." June expresses regret at what she sees as a premature interruption to this collective harnessing of anger. "Why does healing have to be the only goal?" she asks. "Why can't we be as furious as we feel?" Resisting her friend's attempt to temper the women's speech and end the meeting, June offers to stick around. "I'll stay behind," says one woman. "Me too," chimes in another.[1]

Contemporary popular culture is saturated with tales of female–and sometimes, though not always, feminist–revenge. While this dissertation has not examined how vengeance and revenge figure in the domain of popular culture, it has been written with an eye to making sense of what feminists seek to communicate or to enact when they inhabit, rather than shy away from, the figures

[1] *The Handmaid's Tale.* 2021. Season 4, Episode 8, "Testimony." Directed by Elisabeth Moss. Aired June 2, 2021 on *Hulu.*

of vengeance with which they are too often, despite any intentions to the contrary, associated. I have sought to challenge the common criticisms of revenge, which hold that it depends on, encourages, and engenders a kind of solipsism—a burrowing into subjectivity so gripping that the subject comes to lose her sense of the world around her. In doing so, I have departed from Nietczche's familiar-to-political-theorists account of *ressentiment* or imaginary revenge as a refuge for powerless people whom the world has denied the capacity to act, as well as from Wendy Brown's Nietzschean critique of *ressentiment*-driven identity politics.[2] Instead, I have sought to advance an interpretation of vengeance as a political act of claims-making—to tease out how the moments in which women's and feminists' claims to justice are discredited as vengeful reveal the political substance of their claims, which often involve a challenge to narrowly legalistic understandings of justice.

The critique of vengeance in political theory assumes its solipsism as a matter of course. This dissertation, by contrast, has advanced an understanding of vengeance that has emphasized its meaning as emerging among and with others. I have drawn on myth, performance, and agonism to sketch out a sense of vengeance that calls us into, rather than away from, the political world. Situating vengeance in the gap between law and justice—as both an ever-present reminder of this gap and a steadfast rejection of ideological attempts to insist on its closure—I have proposed that vengeance can be understood in a feminist register. Feminism, like vengeance, is a constant reminder that the distinctions between public and private, trivial and serious, and personal and collective, too, always contains the possibility of their own undoing. In papering over this instability and contingency—as I have suggested legalism, in its three faces as an ideal, ideology,

[2] Nietszche, *On the Genealogy of Morals*; Wendy Brown, "Wounded Attachments," *Political Theory* 21, no. 3 (1993): 390-410.

and political strategy, does—I have cautioned that we risk losing the very political core of feminism itself, which poses a challenge to prevailing understandings of justice and of who or what can properly claim to speak in its name.

My return to Aeschylus' *Oresteia* explored the tragedy's depiction of vengeance and justice through its treatment of oaths. In this chapter, I centered the mythical Furies' role as guardians of oaths, exploring the tragedy's progressive account of oaths alongside its treatments of justice and gender. In doing so, I sought to demonstrate the rhetorical process by which women's claims to justice in the tragedy failed to be heard in a political register. The tragedy's progressive delegitimization of oaths unbound from the juridical sphere, I showed, left the Furies without a grammar through which to have matricide—an injustice with both personal and public dimensions, whose meaning is irreducible to either—register as a political injustice. Re-animating their role as guardians of oaths, rather than strictly as avengers of matricide, I sought to bring to light the rhetorical dimensions of patriarchal injustice that exceed the questions of inclusion and exclusion, which, when centered, risk reifying a simplistic view of the relationship between law and politics.

More than a site of inclusion or exclusion, or of the reproduction of existing inequalities, I have throughout this dissertation sought to theorize law courts as sites of performance and potential feminist resistance. By reading seeds of resistance into the Furies' story in Chapter 2, I built upon the work of Hélène Cixous, whose imaginative engagement with Aeschylus' narrative re-figured the tragedy's account of justice. My reading of Cixous' play in Chapter 3 situated it in its political context, revealing how the Furies' perspective was mobilized and inhabited by her in order to confront French society's capture by a legalistic distrust of justice pursued by other means. It is no accident that my dissertation has centered on the law court and the theater as sites through which to investigate the relationship between gender, vengeance, and justice. To treat the court of law as

a site of democratic contestation is to reject the legalistic view of it as standing above and outside of politics. In emphasizing the close relationship between the law court and the theater, I have advanced a view of both as sites through which pre-existing meanings can be reified, but also contested. In my dissertation, each site is understood to be a site of democratic conflict, on the one hand, and of public performance and meaning-making, on the other. This dissertation's analysis of vengeance has built upon an understanding of politics as a performative and public claims-making activity, which, like political claims themselves, always carries the risk of misfiring.

My analysis of the #MeToo movement and the Larry Nassar case in Chapter 4 carries its own risk of misfiring. While I stressed that justice has not been achieved by Nassar's sentencing to life in prison, I did seek to interrogate how a consensus came to coalesce around this case—a consensus which saw in women's iterative speech acts a perversion of liberal justice, on the one hand, and a mockery of the tenets of transformative justice, on the other. My analysis of women's—survivors' and the judge's—speech acts in this case sought to extend the insights advanced in this dissertation's Introduction. Namely, that the allergy to and fear of partiality made manifest by the gendered conception of vengeance as the outside of politics continues to have a hold in liberal democratic societies, in which women who want justice continue to be figured as de-stabilizing and uncontrollable forces.[3]

In closing, my aim has been to critically interrogate the liminal place assigned to vengeance in the liberal democratic imagination and to elucidate its gendered features. I have not provided, nor have I sought to provide, a normative defense of feminist acts of vengeance, although such a defense could be made. In sketching a feminist political theory of vengeance, my aim has been to

[3] The many descriptions of #MeToo and the cultural shifts it has engendered in the language of natural disasters are a case in point.

demonstrate how the evaluative frameworks through which we judge acts or claims to be either vengeful or just, excessive or measured, are shaped by a legalistic grammar of justice in which a dualistic relationship between vengeance and justice has always already been presumed. Situating law firmly within, rather than above and apart from, the messy field of democratic contestation, I have sought also to de-naturalize the received understandings of vengeance as pre-political, solipsistic, and irrational. In this, it is worth recalling Adrienne Rich's poem "From an Old House in America," from which this dissertation drew one of its earliest initial inspirations.

*Who is here. The Erinyes.*
*One to sit in judgment.*

*One to speak tenderness.*
*One to inscribe the verdict on the canyon wall.*

*[…]*

*"Such women are dangerous*
*to the order of things"*

*and yes, we will be dangerous*
*to ourselves*

*[…]*

*because the line dividing*
*lucidity from darkness*

*is yet to be marked out*[4]

Rich's reminder—that the line dividing vengeance from justice is yet to be marked out—is especially important to feminists, whose public pursuits of justice will, more often than not, be interpreted through a framework that sees the line as immutable.

[4] Adrienne Rich, "From an Old House in America," *Poems: Selected and New, 1950-1974* (New York, NY: Norton, 1975), 235-245, 244.

## Bibliography


Abrams, Jamie R. and Amanda Potts. "The Language of Harm: What the Nassar Victim Impact Statements Reveal About Abuse and Accountability." *University of Pittsburgh Law Review* 82, no. 1 (2020): 71-134.

Aeschylus [458 B.C.]. *Oresteia.* Translated by Robert Fagles. New York, NY: Penguin Books, 1977.

Ahmed, Sara. "Killing Joy: Feminism and the History of Happiness." *Signs* 35, no. 3 (2010): 571-594.

Aladjem, Terry K. *The Culture of Vengeance and the Fate of American Justice.* Cambridge, UK: Cambridge University Press, 2008.

Alcoff, Linda Martín. *Rape and Resistance: Understanding the Complexities of Sexual Violation.* Cambridge, UK: Polity Press, 2019.

Allen, Danielle. *The World of Prometheus: The Politics of Punishing in Democratic Athens.* Princeton, NJ: Princeton University Press, 2000.

Arendt, Hannah. [1963] *Eichmann in Jerusalem: A Report on the Banality of Evil.* New York, NY: Penguin Books, 2006.

[1958] *The Human Condition.* 2nd Edition. Chicago: University of Chicago Press, 1998.

*At the Heart of Gold: Inside the USA Gymnastics Scandal* (2019) Directed by Erin Lee Carr [Film]. HBO: Sidewinder Films.

*Athlete A* (2020) Directed by Bonni Cohen [Film]. Netflix: Actual Films.

Aristodemou, Maria. *Law, Psychoanalysis, Society: Taking the Unconscious Seriously.* New York, NY: Routledge, 2014.

Arruzza, Cinzia, Bhattacharya, Tithi and Nancy Fraser. *Feminism for the 99%: A Manifesto.* New York and London: Verso, 2019.

Ayres, Susan. "Hélène Cixous's *The Perjured City:* Nonprosecution Alternatives to Collective Violence." *New York City Law Review* 9, no. 1 (2005): 1-30.

Balfour, Laurie, et al. "Bodies in Politics." *Contemporary Political Theory* 15, no. 1 (2016): 80-118.

Bandes, Susan. "Empathy, Narrative, and Victim Impact Statements." *The University of Chicago Law Review* 63, no. 2 (1996): 361-412.

Barbour, Charles. "The Hazard of Truth: Perjury and Oath in Derrida's Later Work." *Law, Culture and the Humanities* 13, no. 2 (2017): 211-225.

*Derrida's Secret: Perjury, Testimony, Oath.* Edinburgh: Edinburgh University Press, 2017.

Baker, Katie. "Here's the Powerful Letter the Stanford Victim Read to Her Attacker." *Buzzfeednews.com*. June 3, 2016. https://www.buzzfeednews.com/article/katiejmbaker/heres-the-powerful-letter-the-stanford-victim-read-to-her-ra

Bartky, Sandra Lee. *Femininity and Domination: Studies in the Phenomenology of Oppression*. New York: Routledge, 1990.

De Beauvoir, Simone. [1949] *The Second Sex.* Translated by Constance Borde and Sheila Malovany-Chevallier. New York, NY: Vintage Books, 2011.

Benjamin, Walter. [1921] *Toward the Critique of Violence: A Critical Edition.* Edited by Peter Fenves and Julia Ng. Stanford, CA: Stanford University Press, 2021.

Berkowitz, Roger. "Introduction: Revenge and Justice." *Law, Culture and the Humanities* 1.3 (2005): 280-281.

Bernstein, Elizabeth. "Carceral politics as gender justice? The 'traffic in women' and neoliberal circuits of crime, sex, and rights." *Theory and Society* 41, no. 3 (2012): 233-259.

Bettati, Caroline. *Responsables et Coupables: Une affaire du sang.* Paris: Éditions du Seuil, 1993.

Biles, Simone. (@Simone_Biles), "Feelings…#MeToo," Twitter, January 15, 2018, https://twitter.com/Simone_Biles/status/953014513837715457.

Bohrer, Ashley J. *Marxism and Intersectionality: Race, Gender, Class and Sexuality Under Contemporary Capitalism.* Bielefeld: Transcript-Verlag, 2019.

Booth, Tracy. *Accommodating Justice: Victim Impact Statements in the Sentencing Process.* Annandale, New South Wales: The Federation Press, 2016.

Bosia, Michael. "*Assassin!* AIDS and Neoliberal Reform in France." *New Political Science* 27, no. 3 (2005): 291-308.

Böttiger, Karl August. *Les Furies: d'après les poètes et les artistes anciens*. Translated by T.F. Winckler. Paris: Chez August Delalin, 1802.

Bronski, Michael. "Grooming and the Christian Politics of Innocence." *Boston Review.* May 3, 2022. https://bostonreview.net/articles/grooming-and-the-christian-politics-of-innocence/

Brown, Wendy. "Finding the Man in the State." *Feminist Studies* 18, no. 1 (1992): 7-34.

*States of Injury: Power and Freedom in Late Modernity.* Princeton, NJ: Princeton University Press, 1995.
"Wounded Attachments," *Political Theory* 21, no. 3 (1993): 390-410.

Bumiller, Kristin. *In an Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence.* Durham, NC: Duke University Press, 2008.

Burgess, Sarah K. "Between the Desire for Law and the Law of Desire: #MeToo and the Cost of Telling the Truth Today." *Philosophy & Rhetoric* 51, no. 4 (2018): 342-367.

Burkert, Walter. *Homo Necans: The Anthropology of Ancient Greek Sacrificial Ritual and Myth*. Berkeley, CA: University of California Press, 1985.

Burns, Robert P. *A Theory of the Trial.* Princeton, NJ: Princeton University Press, 1999.

Butler Judith. et al., "Disruptive Kinship," Filmed March 24, 2014 at New York University, Video. https://syntheticzero.net/2014/03/24/disruptive-kinship-judith-butler-helene-cixous-avital-ronell/

Butler, Judith. "Fury and Justice in the Humanities." Sigmund H. Danzinger, Jr. Lecture in Literature. University of Chicago. November 11, 2021. Video. https://www.youtube.com/watch?v=YPMIrMkggmA&ab_channel=UChicagoDivisionoftheHumanities.

*Antigone's Claim: Kinship Between Life and Death*. New York, NY: Columbia University Press, 2000.

*Precarious Life: The Powers of Mourning and Violence.* New York, NY: Verso, 2004.

*Giving an Account of Oneself,* New York: NY, Fordham University Press, 2005.

Callard, Agnes, et al. *On Anger*. Cambridge, MA: MIT Press/Boston Review Forum, 2020.

Capelle, Laura. "Ariane Mnouchkine: Half a Century Building Utopia." *The New York Times.* May 14, 2020. https://www.nytimes.com/2020/05/14/theater/ariane-mnouchkine-archive.html.

Caron, David. *AIDS in French culture: social ills, literary cures.* Madison, WI: University of Wisconsin Press, 2001.

"AIDS/Holocaust: Metaphor and French Universalism." *L'Ésprit Créateur* 45, no. 1 (2005): 63-73.

Carruthers, Charlene. *Unapologetic: A Black, Queer, and Feminist Mandate for Radical Movements.* Boston, MA: Beacon Press, 2018.

Cassell, Paul. “In Defense of Victim Impact Statements.” *Ohio State Journal of Criminal Law* 6, no. 2 (2009): 611-649.

Casteret, Anne-Marie. *L’affaire du sang.* Paris: Éditions La Découverte, 1992.

Castere, A-M. «Sida : la tragèdie des hémophiles. » *L’Express,* 1987.

Castoriadis, Cornelius. “The Discovery of the Imagination.” *World in Fragments: Writings on Politics, Society, Psychoanalysis, and the Imagination.* Edited and Translated by David Ames Curtis. Stanford, CA: Stanford University Press, 1997. 213-245.

Castro, Andrés. “Antigone claimed: ‘I am a Stranger!’ Political Theory and the Figure of the Stranger.” *Hypatia: A Journal of Feminist Philosophy* 28, no. 2 (2013): 307-322.

Cervin, Georgia. *Degrees of Difficulty: How Women’s Gymnastics Rose to Prominence and Fell from Grace,* Champaign: University of Illinois Press, 2021.

Chakravarti, Sonali. *Radical Enfranchisement in the Jury Room and Public Life.* Chicago, IL: University of Chicago Press, 2019.

*Sing the Rage: Listening to Anger After Mass Violence.* Chicago, IL: University of Chicago Press, 2014.

Champagne, P. and Marchetti, D. [1994] “The Contaminated Blood Scandal: Reframing Medical News,” *Bourdieu and the Journalistic Field.* Edited by Rodney Benson and Erik Neveu. Cambridge, UK: Polity, 2005, 113-134.

Cherry, Myisha. *The Case for Rage: Why Anger is Essential to Anti-Racist Struggle.* Oxford: Oxford University Press, 2021.

CHILD USA (2022). *“I believe competitive gymnastics and other elite sports break children.” A Case-Study of Systematic Abuse in Sports Perpetrated by Larry Nassar.*

Cixous, Hélène. [1994] *La Ville parjure ou le Réveil des Erinyes.* Paris: Théâtre du Soleil, éditions Théâtrales, Bibliothèque nationale de France, 2010.

and Mireille Calle-Gruber. *Hélène Cixous, Photos de Racines.* Paris: Des Femmes, 1994.

“Enter the Theatre (in between).” Translated by Brian J. Mallet. *Modern Drama* 42, no. 3 (1999): 301-314.

*Politics, Ethics, and Performance : Hélène Cixous and the Théâtre du Soleil.* Edited and Translated by Lara Stevens. Melbourne, Australia: Re-press, 2016.

*Les Rêveries d’une femme sauvage: scenes primitives.* Paris: Éditions Galilée, 2000.

and Bernadette Fort. “Theater, History, Ethics: An Interview with Hélène Cixous on ‘The Perjured City, or the Awakening of the Furies’.” *New Literary History* 28, no. 3 (1997): 425-456.

“The Laugh of the Medusa.” Translated by Keith Cohen and Paula Cohen. *Signs* 1, no. 4 (1976): 875-893.

*Three Steps on the Ladder of Writing.* Translated by Sarah Cornell and Susan Sellers. New York, NY: Columbia University Press, 1990.

*Poetry in Painting: Writings on Contemporary Arts and Aesthetics.* Edited by Marta Segarra and Joana Masó. Edinburgh, Scotland: Edinburgh University Press, 2012.

*Selected Plays of Hélène Cixous.* Edited by Eric Prenowitz. London, UK and New York, NY: Routledge, 2004.

*The Hélène Cixous Reader,* Edited by Susan Sellers. London, UK: Routledge, 1994.

Cohen, Cathy. *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics.* Chicago, IL: University of Chicago Press, 1999.

Cohen, Cathy and Sarah Jackson. “Ask a Feminist: A Conversation with Cathy J. Cohen on Black Lives Matter, Feminism, and Contemporary Activism.” *Signs: Journal of Women in Culture and Society* 41, no. 4 (2016): 775-792.

Cohen, David. *Law, Violence, and Community in Classical Athens.* Cambridge, UK: Cambridge University Press, 1995.

Contrera, Jessica. “Sex trafficking victim Chrystul Kizer wins key Wisconsin court ruling.” *Washington Post* July 6, 2022, https://www.washingtonpost.com/dc-md-va/2022/07/06/kizer-wisconsin-supreme-court-sex-trafficking/.

Cooper, Brittney. *Eloquent Rage: A Black Feminist Discovers Her Superpower.* New York: St. Martin’s Press, 2018.

Cullors, Patrice. “Abolition and Reparations: Histories of Resistance, Transformative Justice, and Accountability.” *Harvard Law Review* 132 (2019): 1684-1694.

Dailey, Anne. *Law and the Unconscious: A Psychoanalytic Perspective.* New Haven, CT: Yale University Press, 2017.

Dannery, L. “Avignon: Rencontre avec Hélène Cixous.” *La Marseillaise.* 17 juillet 1995.

Davis, Angela et al., *Abolition. Feminism. Now.* Chicago, IL: Haymarket, 2022.

Delphy, Christine. “The Invention of French Feminism: An Essential Move.” *Yale French Studies* No. 87 (1995): 190-221.

Derrida, Jacques. “Poetics and Politics of Witnessing.” *Sovereignties in Question: The Poetics of Paul Celan.* Translated by Outi Pasanen. Edited by Outi Pasanen and Thomas Dutoit. New York, NY: Fordham University Press, 2007. 65-96.

Detienne, Marcel. *The Masters of Truth in Archaic Greece*. Translated by Janet Lloyd. New York, NY: Zone Books, 1996.

Dickson, A. “Ariane Mnouchkine and the Théâtre du Soleil: a life in theatre.” *The Guardian,* 10 August 2012. https://www.theguardian.com/culture/2012/aug/10/ariane-mnouchkine-life-in-theatre

Dietz, Mary G. ““Current Controversies in Feminist Theory.” *Annual Review of Political Science* 6, no. 1 (2003): 399-431.

Dolgert, Stefan. “Sacrificing Justice: Suffering Animals, the *Oresteia,* and the Masks of Consent.” *Political Theory* 40, no. 3 (2012): 263-289.

Dowd, Nancy and Michelle S. Jacobs, M. Eds. *Feminist Legal Theory: An Anti-Essentialist Reader.* New York, NY: New York University Press, 2003.

Doyle, Jennifer. “Harassment and the Privilege of Unknowing: The Case of Larry Nassar.” *differences: A Journal of Feminist Cultural Studies* 30, no. 1 (2019): 157-188.

Drexler, Peggy. “With Nassar Judge, Victims Get Their Avenging Angel.” *CNN*. January 25, 2018. https://www.cnn.com/2018/01/24/opinions/with-nassar-judge-victims-get-their-avenging-angel-drexler/index.html.

Dupont, Joan. “In Paris, the Return of the Furies.” *International Herald Tribune*. June 8, 1994.

Dworkin, Ronald. *Law’s Empire.* Cambridge, MA: Cambridge University Press, 1986.

Equal Employment Opportunity Commission. “Special Report: Women in the American Workforce.” https://www.eeoc.gov/special-report/women-american-workforce

Erlingsdóttir, Irma. “The Politics of Justice and the French Blood Affair in Hélène Cixous’s *The Perjured City.*” *Paragraph* 38, no. 3 (2015): 369-385.

Euben, Peter. *The Tragedy of Political Theory*: *The Road Not Taken*. Princeton, NJ: Princeton University Press, 1990.

“Justice and the *Oresteia.*” *The American Political Science Review* 76, no. 1 (1982): 22-33.

Everett, Sami Samuel. "The Algerian Works of Hélène Cixous: at the Triple Intersection of European, North African, and Religious Nationalisms." *International Journal of Politics, Culture, and Society* 30, no. 2 (2017): 201-217.

Farmer, Paul. *AIDS and Accusations: Haiti and the Geography of Blame.* Berkeley, CA: University of California Press, 1992.

Federici, Silvia and Jill Richards. "Every Woman is a Working Woman." *Boston Review.* December 19, 2018. https://bostonreview.net/articles/every-woman-working-woman/

Felman, Shoshana. *The Juridical Unconscious: Trials and Trauma in the Twentieth Century.* Cambridge, MA: Harvard University Press, 2002.

Finlayson, Lorna, "An Interview with Dr. Lorna Finlayson." *Oxford Political Review.* November 2, 2021. http://oxfordpoliticalreview.com/2021/11/02/dr-lorna-finlayson/

Fitzpatrick, Peter. *The Mythology of Modern Law.* London: Routledge, 1992.

Fletcher, Judith. *Performing Oaths in Classical Greek Drama*. Cambridge, UK: Cambridge University Press, 2011.

Fletcher, Judith. "Polyphony to Silence: The Jurors of the *Oresteia*." *College Literature* 41, no. (2014): 56-75.

Frank, Jill. "On *logos* and politics in Aristotle." *Aristotle's Politics: A Critical Guide,* Edited by Thornton Lockwood and Thanassis Samaras. Cambridge, UK: Cambridge University Press, 2015. 9-26.

Franklin, Sarah and Mackinnon, Susan. "Introduction." *Relative Values: Reconfiguring Kinship Studies*. Edited by Sarah Franklin and Susan Mackinnon. Durham, NC: Duke UP, 2011. 1-28.

Fraser, Nancy. "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy." *Social Text* 25/26 (1990): 56-80.

Frye, Marilyn. "To Be and Be Seen: The Politics of Reality." *The Politics of Reality: Essays in Feminist Theory.* Freedom, CA: The Crossing Press, 1983. 152-174.

Gago, Verónica. *Feminist International: How to Change Everything.* Translated by Liz Mason-Deese. New York and London: Verso, 2020.

Gallop, Jane. "French Theory and the Seduction of Feminism." *Paragraph* 8 (1986): 19-24.

Garsten, Bryan. "The Rhetoric Revival in Political Theory." *American Political Science Review* 14, no. 1 (2011): 159-180.

Gentile, Jill and Michael Macrone. *Feminine Law: Freud, Free Speech, and the Voice of Desire.* New York, NY: Karnac Books, 2016.

Gerwitz, Paul. "Victims and Voyeurs at the Criminal Trial." *Northwestern University Law Review* 90, no. 3 (1996): 863-897.

Gilligan, Carol and David Richards. *Darkness Now Visible: Patriarchy's Resurgence and Feminist Resistance.* Cambridge, UK: Cambridge University Press, 2018.

Gilmore, Leigh. *Tainted Witness: Why We Doubt What Women Say About Their Lives.* New York: Columbia University Press, 2017.

*Glamour.com* (2018) 'My Voice Matters': The Survivors of Larry Nassar, In Their Own Words.' https://www.glamour.com/story/the-survivors-of-larry-nassar-in-their-own-words

Goldhill, Simon. "The audience of Athenian tragedy," in *The Cambridge Companion to Greek Tragedy,* Edited by P.E. Easterling. Cambridge, UK: Cambridge University Press, 2006. 54-68.

Goodmark, Leigh. *A Troubled Marriage: Domestic Violence and the Legal System.* New York: New York University Press, 2011.

Grassi, Ernesto. *Rhetoric as Philosophy: The Humanist Tradition.* University Park and London: The Pennsylvania State University Press, 1980.

Hafner, Josh. "The Judge in the Larry Nassar trial: Incredible quotes to victims and their abuser." *USA Today.* January 24, 2018. https://www.usatoday.com/story/news/nation-now/2018/01/24/judge-larry-nassar-trial-incredible-quotes-victims-and-their-abuser/1061691001/.

Hayes, Kelly. and Mariame Kaba. "The Sentencing of Larry Nassar was Not 'Transformative Justice.' Here's Why." *The Appeal,* February 5, 2018. https://theappeal.org/the-sentencing-of-larry-nassar-was-not-transformative-justice-here-s-why-a2ea323a6645/

Heberle, Renee. "The Personal is Political," in *The Oxford Handbook of Feminist Theory.* Edited by Lisa Disch and Mary Hawkesworth. New York: Oxford University Press, 2016. 593-609.

Higgins, Abigail and Olúfémi Táíwo. "How the Violence Against Women Act Failed Women." *The Nation.* March 23, 2021. https://www.thenation.com/article/society/violence-against-women-act/

Hill, Annie. "Nondisclosure Agreements: Sexual Harassment and the Contract of Silence." *The Gender Policy Report.* November 14, 2017. https://genderpolicyreport.umn.edu/nondisclosure-agreements-sexual-harassment-and-the-contract-of-silence.

Hobbes, Thomas. *Leviathan: A Critical Edition.* Edited by Karl Schuumann and G.A.J. Rogers. London, UK: Thoemmes Continuum, 2005.

Honig, Bonnie. "Antigone's Two Laws: Greek Tragedy and the Politics of Humanism." *New Literary History* 41, no. 1 (2010): 1-33.

"Toward an Agonistic Feminism: Hannah Arendt and the Politics of Identity" in *Feminists Theorize the Political.* Edited by Butler, J. and Scott, J. New York: Routledge, 1992. 215-238.

*A Feminist Theory of Refusal.* Cambridge, MA: Harvard University Press, 2021.

*Political Theory and the Displacement of Politics.* Ithaca and London: Cornell University Press, 1993.

Horkheimer, Max and Theodor W. Adorno. [1944] *Dialectic of Enlightenment: Philosophical Fragments.* Edited by Gunzelin Schmid Noerr. Translated by Edmund Jephcott. Stanford, CA: Stanford University Press, 2002.

Hutchinson, Allan C. and Patrick Monahan. Editors. *The Rule of Law: Ideal or Ideology.* Cambridge, MA: Cambridge University Press, 1987.

Hunter, Rosemary, McGlynn, Clare, and Erika Rackley. Editors. *Feminist Judgments: From Theory to Practice.* Portland, OR: Hart Publishing, 2010.

Jacobs, Amber. *On Matricide: Myth, Psychoanalysis, and the Law of the Mother.* New York, NY: Columbia University Press, 2007.

Jacoby, Susan. *Wild Justice: the Evolution of Revenge.* New York, NY: Harper Collins, 1983.

Jay, Martin. "Must Justice be Blind?: The Challenges of Images to the Law" in *Law and the Image: The Authority of Art and the Aesthetics of Law,* Edited by Costas Douzinas and Lynda Nead. Chicago: University of Chicago Press, 1999. 19-35.

Johnston, Sarah Iles. *Restless Dead: Encounters Between the Living and the Dead in Ancient Greece.* Berkeley, CA: University of California Press, 1999.

Jones, Ann. [1980] *Women Who Kill.* 2nd Edition. New York: The Feminist Press, 2009.

Kaba, Mariame., et al. *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice,* Chicago, IL: Haymarket, 2021.

Kamen, Deborah. *Status in Classical Athens.* Princeton, NJ: Princeton University Press, 2013.

Kasimis, Demetra. *The Perpetual Immigrant and the Limits of Athenian Democracy*. Cambridge, UK: Cambridge University Press, 2018.

"Medea the Refugee." *The Review of Politics* 82, no. 3 (2020): 393-415.

Kennedy, Duncan. "The Critique of Rights in Critical Legal Studies," in *Left Legalism/Left Critique.* Edited by Wendy Brown and Janet Halley. Durham and London: Duke University Press, 2002. 178-228.

Kessel, Alisa. "The Cruel Optimism of Sexual Consent." *Contemporary Political Theory* 19, no. 3 (2020): 359-380.

Kiernander, Adrian. *Ariane Mnouchkine and the Théâtre du Soleil.* Cambridge, UK: Cambridge University Press, 1993.

Kipnis, Laura. "Has #MeToo gone too far, or not far enough? The answer is both." *The Guardian* January 13, 2018. https://www.theguardian.com/commentisfree/2018/jan/13/has-me-too-catherine-deneuve-laura-kipnis.

Krause, Sharon R. *Civil Passions: Moral Sentiment and Democratic Deliberation.* Princeton and Oxford: Princeton University Press, 2008.

Kristeva, Julia. *Pouvoir de l'horreur: Essai sur l'abjection.* Paris: Éditions du Seuil, 1980.

Lanni, Adriaan. *Law and Justice in the Courts of Classical Athens*. Cambridge, UK: Cambridge University Press, 2006.

Larson, Stephanie. "Survivors, Liars, and Unfit Minds: Rhetorical Impossibility and Rape Trauma Disclosure." *Hypatia* 33, no. 4 (2018): 681-699.

"Just Let This Sink In': Feminist *Megethos* and the Role of Lists in #MeToo." *Rhetoric Review* 38, no. 4 (2019): 432-444.

Lemieux, Jamilah. "Weinstein, White Tears and the Boundaries of Black Women's Empathy." *Cassiuslife.com*. November 2, 2017. https://cassiuslife.com/33564/white-women-dont-look-out-for-black-victims/

Levenson, Eric and Ellie Kaufman. "She's the judge these Larry Nassar victims needed." *CNN.* January 18, 2018. https://www.cnn.com/2018/01/17/us/larry-nassar-judge-sentencing/index.html

Levine, Judith and Erica Meiners. *The Feminist and the Sex Offender: Confronting Sexual Harm, Ending State Violence*. New York and London: Verso, 2020.

Light, Caroline. *Stand Your Ground: A History of America's Love Affair with Lethal Self-Defense.* Boston, MA: Beacon Press, 2017.

Locke, Jill. "Shame and the Future of Feminism," *Hypatia* 22, no. 4 (2007): 146-162.

Locke, John. [1690] *Second Treatise of Government.* Edited by C.B. Macpherson. Indianapolis, IN: Hackett Publishing Company, 1980.

Loraux, Nicole. [1997] *The Divided City: On Memory and Forgetting in Ancient Athens*. Translated by Corinne Pache and Jeff Fort. New York, NY: Zone Books, 2006.

Mackinnon, Catherine A. *Towards a Feminist Theory of the State.* Cambridge, MA: Harvard University Press, 1989.

"Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence," *Signs: Journal of Women in Culture and Society* 8, no. 4 (1983): 635-658

MacLachlan, Alice. "Unreasonable Resentments," *Journal of Social Philosophy* 41, no. 4 (2010): 422-441.

Manderson, Desmond. "Athena's Way: The Jurisprudence of the *Oresteia.*" *Law, Culture, and the Humanities* 15, no. 1 (2019): 253-276.

Mardikes, Catherine. "Curses and conspiratorial oaths in the "Oresteia" of Aeschylus." Ph.D. diss. University of Chicago, 1994.

Marin, Mara. *Connected by Commitment: Oppression and our Responsibility to Undermine It*. New York, NY: Oxford University Press, 2017.

Markell, Patchen. *Bound by Recognition.* Princeton, NJ: Princeton University Press, 2003.

Martel, F. [1996] *The Pink and the Black: Homosexuals in France Since 1968.* Translated by Jane Marie Todd. Stanford, CA: Stanford University Press, 2000.

Marx, Karl. [1871] *The Civil War in France, preceded by the two Manifestoes of the General Council of the International on the Franco-Prussian War.* London: The Labour Publishing Company, 1921.

Maxwell, Lida. *Public Trials: Burke, Zola, Arendt, and the Politics of Lost Causes*. Oxford, UK: Oxford University Press, 2014.

"Toward an agonistic understanding of law: Law and politics in Hannah Arendt's *Eichmann in Jerusalem.*" *Contemporary Political Theory* 11, no. 1 (2012): 88-108.

McClure, Laura. "Staging Mothers in Sophocles' *Electra* and *Oedipus the King.*" *A Companion to Sophocles.* Edited by Kirk Ormand. Oxford, UK: Wiley-Blackwell, 2012. 367-380.

McDuff, Robin, Pernell, Deanne, and Karen Saunders. [1997] "Open Letter to the Anti-Rape Movement." *Project NIA.* 2020. https://issuu.com/projectnia/docs/letter-to-the-antirape-movement.

McEvoy, Jemima. "Kyle Rittenhouse Defense Fund Raised Hundreds of Thousands of Dollars Ahead of His November Murder Trial." *Forbes.* June 21, 2021.

https://www.forbes.com/sites/jemimamcevoy/2021/06/21/kyle-rittenhouse-defense-fund-raising-hundreds-of-thousands-of-dollars-ahead-of-his-november-murder-trial/?sh=4e22ec8c5f17

Meiners, Erica R. *For the Children?: Protecting Innocence in a Carceral State.* Minneapolis, MN: University of Minnesota Press, 2016.

Menke, Christopher. "Law and Violence," *Law and Literature* 22, no. 1 (2010): 1-17.

Meyers, Diana Tietjens. "Two Victim Paradigms and the Problem of 'Impure' Victims." *Humanity* 2, no. 2 (2011): 255-275.

Meyers, Diana Tietjens. *Victims' Stories and the Advancement of Human Rights,* Oxford, UK: Oxford University Press, 2016.

Miller, Chanel. *Know My Name: A Memoir,* New York: Penguin Books, 2020.

Millett, Kate. [1970] *Sexual Politics.* Chicago, IL: University of Illinois Press, 2000.

Minow, Martha and Elizabeth V. Spelman. "Passion for Justice." *Cardozo Law Review* 10 (1988): 37-76.

Mishan, Ligaya. "The Long and Tortured History of Cancel Culture." *The New York Times Style Magazine.* December 3, 2020. https://www.nytimes.com/2020/12/03/t-magazine/cancel-culture-history.html

Mouffe, Chantal. *The Democratic Paradox.* New York and London: Verso, 2000.

Nash, Jennifer and Samantha Pinto. "A New Genealogy of 'Intelligent Rage,' or Other Ways to Think about White Women in Feminism." *Signs: Journal of Women in Culture and Society* 46, no. 4 (2021): 883-910.

Nietzsche, Friedrich. [1882]. *The Gay Science.* Edited by Bernard Williams. Translated by Josefine Nauckhoff and Adrian del Caro. Cambridge, UK: Cambridge University Press, 2001.

[1887]. *On the Genealogy of Morals and Ecce Homo.* Translated by Walter Kaufman and RJ Hollingdale. New York: Vintage Books, 1989.

Njoya, Wairimu. "The Progress of Law: Aeschylus's *Oresteia* in Feminist in Critical Theory." *Political Theory* 48, no. 2 (April 2020): 139-68.

Noel, Ann M. and David B. Oppenheimer, Editors. *The Global #MeToo Movement: How Social Media Propelled a Historic Movement and the Law Responded.* Washington, D.C.: Full Court Press, 2020.

Norval, Aletta. “Passionate Subjectivity, Contestation and Acknowledgement: Re-reading Austin and Cavell.” in *Law and Agonistic Politics,* Edited by Andrew Schaap. Burlington, VT: Ashgate, 2019. 163-178.

Nussbaum, Martha C. *Anger and Forgiveness: Resentment, Generosity,* Justice. Oxford, UK: Oxford University Press, 2016.

*Citadels of Pride: Sexual Assault, Accountability, and Reconciliation.* New York, NY: W.W. Norton, 2021.

Okin, Susan Moller. “Reason and Feeling in Thinking About Justice.” *Ethics* 99, no. 2 (1989): 229-249.

Olsen, Frances. “Statutory Rape: A Feminist Critique of Rights Analysis.” *Texas Law Review* 63, no. 3 (1984): 387-432.

Padel, Ruth. *In and Out of Mind: Greek Images of the Tragic Self*. Princeton, NJ: Princeton University Press, 1992.

Pascaud, F. “Chronique: Label Hélène.” *Télérama* No. 2313, p. 84. 11 mai 1994.

Pazzanese, C. and Walsh, C. (2017) The Women’s Revolt: Why now, and where to. *The Harvard Gazette* https://news.harvard.edu/gazette/story/2017/12/metoo-surge-could-change-society-in-pivotal-ways-harvard-analysts-say/

Pateman, Carole. “‘The Disorder of Women’: Women, Love, and the Sense of Justice.” *Ethics* 91, no. 1 (1980): 20-34.

*The Disorder of Women: Feminism, Democracy, and Political Theory.* Stanford, CA: Stanford University Press, 1989.

Peters, Diane. “The Women’s Court of Canada.” *University Affairs.* September 12, 2011. https://www.universityaffairs.ca/features/feature-article/the-womens-court-of-canada/

Phipps, Alison. *Me, Not You: The Trouble with Mainstream Feminism,* Manchester, UK: Manchester University Press, 2020.

“The Political Whiteness of #MeToo.” *Redpepper.org.uk.* June 4, 2019. https://www.redpepper.org.uk/the-political-whiteness-of-metoo/

Pinell, Patrice, et al. *Une épidemie politique: La lutte contre le sida en France (1981-1996).* Paris: Presses Universitaires de France, 2002.

Pitkin, Hanna F. “Justice: On Relating Private and Public” *Political Theory* 9, no. 3 (1981): 327-352.

Prins, Yopie. "The Power of a Speech Act: Aeschylus' Furies and Their Binding Song." *Arethusa* 24, no. 2 (1991): 177-195.

RAINN, 'Key Terms and Phrases.' https://www.rainn.org/articles/key-terms-and-phrases

Rao, Neomi. "Three Concepts of Dignity in Constitutional Law." *Notre Dame Law Review* 86, no. 1 (2011): 183-271.

Rawls, John. *A Theory of Justice.* Cambridge, MA: Harvard University Press, 1971.

[1993]. *Political Liberalism.* 2nd Edition. New York: Columbia University Press, 2005.

Rentschler, Carrie. *Second Wounds: Victims' Rights and the Media in the U.S.* Durham, NC: Duke University Press, 2011.

Resnik, Judith and Dennis Curtis. *Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms.* New Haven, CT: Yale University Press, 2011.

Rich, Adrienne. "From an Old House in America." *Poems: Selected and New, 1950-1974.* New York, NY: Norton, 1975. 235-245.

Ritchie, Beth. *Arrested Justice: Black Women, Violence, and America's Prison Nation.* New York, NY: New York University Press, 2012.

Rose Hill, Samantha. "When the Private Becomes Political." *The Philosophical Salon.* June 11, 2018. https://thephilosophicalsalon.com/when-the-private-becomes-political/

Ruparella, Rakhi. "All That Glitters is Not Gold: The False Promise of Victim Impact Statements" in *Sexual Assault in Canada: law, legal practice, and women's activism.* Edited by Elizabeth A. Sheehy. Ottawa: University of Ottawa Press, 2012. 665-670.

Salecl, Renata. *The Spoils of Freedom: Psychoanalysis and Feminism after the Fall of Socialism.* London, UK: Routledge, 1994.

Sandel, Michael. [1982] *Liberalism and the Limits of Justice.* 2nd Edition. Cambridge: Cambridge University Press, 1998.

Saxonhouse, Arlene. "Aeschylus' *Oresteia*: Misogyny, Philogyny, and Justice." *Women and Politics* 4 (1984): 11-32.

Schaap, Andrew. *Law and Agonistic Politics.* Editor. Burlington, VT: Ashgate, 2009.

Schleppele, Kim. "The Reasonable Woman." *The Responsive Community* 1, no. 4 (1991): 36-47.

Scott, Joan Wallach. *Only Paradoxes to Offer: French Feminists and the Rights of Man.* Cambridge, MA: Harvard University Press, 1996.

Setbon, Michel. "La normalization paradoxale du sida." *Revue française de sociologie* 41, no. 1 (2000): 61-78.

Sewell-Rutter, N.J. *Guilt by Descent: Moral Inheritance and Decision Making in Greek Tragedy*. Oxford, UK: Oxford University Press, 2007.

Sheley, Erin. "Victim Impact Statements and Expressive Punishment in the Age of Social Media." *Wake Forest Law Review* 52, no. 1 (2017): 157-192.

"Reverberations of the Victim's 'Voice': Victim Impact Statements and the Cultural Project of Punishment," *Indiana Law Journal* 87, no. 3 (2012): 1247-1286.

Shivaram, Deepa. "Rittenhouse's defense renews focus on the case of a 17-year old who killed her abuser." *NPR*. November 25, 2021. https://www.npr.org/2021/11/22/1057976496/rittenhouse-verdict-chrystul-kizer-self-defense

Shklar, Judith. *Ordinary Vices.* Cambridge, MA: Harvard University Press, 1984.

*The Faces of Injustice.* New Haven, CT: Yale University Press, 1990.

[1964] *Legalism: Law, Morals, and Political Trials.* Cambridge, MA: Harvard University Press, 1986.

Shneider, Elizabeth."The Dialectic of Rights and Politics: Perspectives from the Women's Movement." *New York University Law Review* 61, no. 1 (1986): 589-652.

"Equal Rights to Trial for Women: Sex-Bias in the Law of Self-Defense," *Harvard Civil Rights-Civil Liberties Law Review* 15, no. 3 (1980): 623-648.

Simon, Jonathan. "Dignity and its discontents: Towards an abolitionist rethinking of dignity." *European Journal of Criminology* 18, no. 1 (2021): 33-51.

Smart, Carol. *Feminism and the Power of Law.* London and New York: Routledge, 1989.

Smith, Tovia. "On #MeToo, Americans More Divided by Party Than Gender." *NPR*. Jaunary 13, 2018. https://www.npr.org/2018/10/31/662178315/on-metoo-americans-more-divided-by-party-than-gender

Sommerstein, Alan and Isabelle Torrance. Editors. *Oaths and Swearing in Ancient Greece*. Berlin: Walter de Gruyter, 2014.

Sommerstein, Alan and Andrew Bayliss. Editors. *Oath and State in Ancient Greece*. Berlin: De Gruyter, 2012.

Sontag, Susan. *AIDS and its Metaphors.* New York, NY: Farrar, Straus, and Giroux, 1989.

Srinivasan, Amia. *The Right to Sex: Feminism in the Twenty-First Century.* New York: Farrar, Straus, and Giroux, 2021.

"The Aptness of Anger." *The Journal of Political Philosophy* 26, no. 2 (2018): 123-144.

Starr, Douglas. [1998]. *Blood: An Epic History of Medicine and Commerce.* New York, NY: HarperCollins, 2002.

Stevens, Jacqueline. *Reproducing the State*. Princeton, NJ: Princeton University Press, 1999.

Street, Julie. "Queen Ariane Triumphs at Tragedy." *The European,* 10 June 1994.

Sweatman, Jennifer L. *The Risky Business of French Feminism: Publishing, Politics, and Artistry.* London, UK: Lexington Books, 2014.

Taylor, Chloë. " Anti-Carceral Feminism and Sexual Assault—A Defense: A Critique of the Critique of Critique of Carceral Feminism." *Social Philosophy Today* 34 (2018): 29-49.

Terwiel, Anna. "What is Carceral Feminism?" *Political Theory* 48, no. 4 (2020): 421-442.

*The Handmaid's Tale.* 2021. Season 4, Episode 8, "Testimony." Directed by Elisabeth Moss. Aired June 2, 2021 on *Hulu.*

Thuma, Emily. *All Our Trials: Prisons, Policing, and the Feminist Fight to End Violence.* Urbana, IL: University of Illinois Press, 2019.

Thür, Gerhard. "Oaths and Dispute Settlement in Ancient Greek Law." *Greek Law in its Political Setting: Justifications not Justice.* Edited by Lin Foxhall and Andrew Lewis. Oxford, UK: Clarendon Press, 1996. 57-72.

Traister, Rebecca. *Good and Mad: The Revolutionary Power of Women's Anger.* New York and London: Simon & Schuster, 2018.

Tully, James. *Public Philosophy in a New Key, Volume I: Democracy and Civic Freedom.* Cambridge, UK: Cambridge University Press, 2008.

USAToday. "Who is Larry Nassar? A Timeline of his Decades-Long Career, Sexual Assault Convictions and Prison Sentences." *USAToday Network.* 2018. https://www.usatoday.com/pages/interactives/larry-nassar-timeline/

Varino, Sofia. "Liminal Politics: Performing feminine difference with Hélène Cixous." *European Journal of Women's Studies* 25, no. 3 (2018): 293-309.

Visser, Margaret. "Vengeance and Pollution in Classical Athens." *Journal of the History of Ideas* 45, no. 2 (1984): 193-206.

Walker, Martha. "Rehabilitating feminist politics and political theatre: Hélène Cixous' *La Ville parjure ou le réveil des Erinyes* at the *Théâtre du Soleil.*" *Modern and Contemporary France* 9, no. 4 (2001): 495-506.

Wells, Adam. "Larry Nassar Survivors Offered Settlements Between $83k and $1.25M from USAG." *Bleacher Report.* February 22, 2020. https://bleacherreport.com/articles/2877488-larry-nassar-survivors-offered-between-83k-and-125m-settlements-from-usag

Weltman-Aron, Brigitte. "Hélène Cixous' *The Perjured City.*" *CR: The New Centennial Review* 12.3 (2012): 67-90.

West, Robin. "Reconsidering Legalism." *Minnesota Law Review* 88 (2003): 119-158.

White, Stephen K. "Agonism, Democracy, and the Moral Equality of Voice." *Political Theory* 50.1 (2022): 59-85.

Women's March. "Guiding Vision and Definition of Principles." January 19, 2019. https://static1.squarespace.com/static/5c3feb79fcf7fdce5a3c790b/t/5c433e85c2241ba6b9353fce/1547910789489/2019%2BUnity%2BPrinciples.pdf

Woodly, Deva. *The Politics of Common Sense: How Social Movements Use Public Discourse to Change Politics and Win Acceptance*. New York: Oxford University Press, 2015.

*Reckoning: Black Lives Matter and the Democratic Necessity of Social Movements.* New York: Oxford University Press, 2022.

Wypijewski, JoAnn. *What We Don't Talk About When We Talk About #MeToo: Essays on Sex, Authority, and the Mess of Life.* New York and London: Verso, 2020.

Young, Iris Marion. [1990] *Justice and the Politics of Difference.* Princeton, NJ: Princeton University Press, 2011.

Zeitlin, Froma. "The Dynamics of Misogyny." *Arethusa* 11, no. 1-2 (1978): 149-184.

Zerilli, Linda. *A Democratic Theory of Judgment*. Chicago, IL: University of Chicago Press, 2016.

*Feminism and the Abyss of Freedom.* Chicago, IL: University of Chicago Press, 2005.

*Signifying Woman: Culture and Chaos in Rousseau, Burke, and Mill.* Ithaca and London: Cornell University Press, 1994.