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LAW'S ALIENATION: FURIES AND NOMOI AND BEARS (AND NUNS)

EMILY FOWLER HARTIGAN*

I. INTRODUCTION

When I first read Ludwig Wittgenstein's *Philosophical Investigations*¹, one way I explained it to myself was that for Wittgenstein context is everything, or at least that it is integral to the meaning of everything. That is what Jacques Derrida's "there-is-nothing-outside-the-text" means for me. We, words, laws, books, even (in my tradition) God incarnate, are all embedded in the texture together. So it should not surprise me that Professor Sullivan's remarks as spoken here and commented upon by Professor Greenawalt now come to me differently than they did when I merely read them in the context of a projected, planned conversation called the Marquette Symposium on Religion and the Judicial Process. When I first read the remarks, they came to me as advocating a sort of talk, discourse invoking both law and religion, that they did not enter and I found that frustrating. Now when I hear them in the midst of our talk here, they come as invitation.

Professor Greenawalt joins in that heard invitation by observing that in dealing with the profession of religious belief and the practice of religious conduct, the law must start with the individual. We have been talking here about the business of the general, the law—but Greenawalt's "law" of religion in the so-called secular state is one that points paradoxically to the specific first rather than the general. Of course, if what I just said about context has truth, the particular is so intertwined in all the other particulars in the "Whole" that when we start with the individual we somehow gather all the "Rest" along. However, even if the context is implied in the particular, we have to start somewhere, so I will start here and now by answering the

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1. LUDWIG WITTGENSTEIN, *PHILOSOPHICAL INVESTIGATIONS*, (G.E.M. Anscombe J.R. Rhees eds., MacMillan Co., 1966) (1953).

invitation to begin with religious speech. I will speak about my part of the story of religious jewelry, of "artifacts" and of the impact of speech and silence in the law.

In thus taking up the invitation, I will try to honor the general, to give some structure, though tentatively. I will give my remarks a name, promising to attempt to shepherd all those particular words under one title, one theme, paradoxical though it may be. My title is: *Law's Alienation: Furies and Nomoi and Bears (and Nuns)*.

II. LAW'S ALIENATION

The title salutes the chant of defiance that Dorothy and her companions used to charge themselves with the courage necessary to enter the dark forest of lions and tigers and bears . . . paradoxical in many ways, including that one of the perceived "enemy" became a companion (the lion). I should thus confess that the enemy I continue to meet includes myself, as I am of course in part one of those secularists, those generalizers, those women operating in the patriarchy. And you should not be surprised that the Law will meet in itself the forces that supposedly destroy law, that the Nomoi (the laws Socrates addresses in the CRITO) will meet the Furies (the supposedly chaotic forces of blood feud prior to law) in themselves.² This self-meeting or category-inversion is not so-called "nihilistic deconstruction," but the academic and legal face of the wisdom that my tradition expresses as "Love your enemy . . ."

This same movement of meeting what seems one's opposite or enemy points to the initial situation I want to invoke: we are living in times of a cold civil war, but one much more complex and ambiguous than the one in which men wore uniforms of grey and blue. In the declared and undeclared culture wars, we risk shooting our own if we do not follow the strands of our actions and arguments with enough deftness and responsibility. I have just been denied tenure for the sixth time, at my fourth law school, and the advocacy against religious talk in public discourse has contributed to that. When the argument against religion in law is made, its adherents seem to forget the history of the civil rights movement and to overlook what to me in South Texas is commonplace: your elegant academic arguments will not silence those whom you wish to silence. Those who use talk in public about God and scripture in a way that offends you will not be deterred by your logic.

2. See AESCHYLUS, THE ORESTEIA: A NEW TRANSLATION FOR THE THEATRE, (David Grene & Wendy Doniger O'Flaherty trans., 1989).

There is no easy way to identify those oblivious folk by doctrine or demographics or dogma; they are just the individual people whose wounded Christian (or other) triumphalism is not an open message of love for all God's children. Those who hold the truth as their exclusive warrant for domination or as judgments of condemnation, think they can ascertain who is favored by God, and do so through rigid categorizations. Those who want to condemn not these triumphalists as persons but their very *actions* of condemnation, cannot fall into their "enemy's" method, using sweeping criteria for sheep and goats. The litmus test for who is blinded by a desperate need for religious superiority is not a matter of denomination. The desire to impose belief on another, to force others to confess God as the dominator sees God, is not open to your scholarly book-thumping even in its most eloquent performance. The people you want to silence or to move to reflection, are the last people to listen to your message, and the first to elude your attempts at predicting who they are. How could you hope to use the medium of open dialogue and true scholarly conversation to touch those who think religion is a matter of absolutes to which they have privileged access and before which all others must capitulate? How could you hope to call others to see more openly when you predict their behavior by "types", not call them by name? You want to stop the imposition of belief—please reflect on what that imposing mind-set involves, and tell me if you think somehow your arguments can, as scholarly arguments, open such a mind (much less a heart or soul). The problem of such moments of captivity within the authoritarian fallibilities of religion is not a logical problem. In Wittgenstein's parlance, you are playing the wrong language game.

Nor will you be able to tell me which uniform color of the cold civil war garbs these closed souls. All the blues are not true-blue, and all the greys are not cravenly compromised. The usual suspects in the fight against strident religion will not prove reliable predictors of such imperviousness. Professor Sullivan's colleague at Washington and Lee, Sam Calhoun, wrote unequivocally of his rejection of any use of his fundamentalist Christianity to impose belief through law in an article³ several years ago that reflects the stance of many who might fall into the too-easy categories used by careless arguments like Suzanna Sherry's against "religionists."⁴ Sherry calls the feared religionists

3. Samuel Calhoun, *Conviction Without Imposition: A Response to Professor Greenawalt*, 9 J.L. & RELIG. 289 (1992).

4. Suzanna Sherry, *The Sleep of Reason*, 84 GEO. L.J. 453 (1996).

“conservatives” but cites Milner Ball, Doug Laycock, and traverses the geography occupied by Howard Lesnick, Tom Shaffer. Her category gathers in one or two “conservatives” but cannot escape a half-dozen progressives; among conventionally-identified conservatives she taps people like Michael McConnell whose conversation’s complexity and fluidity leaves little room for images of the “Inquisition.” Similarly, those who wield *categories* like fundamentalist, evangelical, Mormon, “right-wing Christian”, cannot capture the real miscreants. Just as with the value of religion, the danger of it is something that must start with the individual. And just as believers can be rigid, punitive and doctrinaire, so can secularists and skeptics. Perhaps more importantly for those of us who believe in free will, the “real miscreants” cannot be captured even by individual names, as any one of us can fall into moments of the desire to impose, to dominate, and an argument that we should be silent about the place in us where freedom, change, conversion take place seems most likely to savage the connection between public ideology, and the so-called “private” conscience and soul. Such advocacy for reticence will not deter those already engaged in “holy wars.”

A much more likely effect of segregating spiritual discourse from law talk will be what has happened to me. I was not stunned when my scholarship and teaching were rejected at the state university where I began to teach because they were out of order for being religious. I did not expect this rejection to extend to a Catholic law school. Even though I was hired with a seven-year record of overtly faith-based scholarship and teaching, many of my senior colleagues have rejected me at St. Mary’s because law and religion is “soft law,” and not a true field of law, and it is “disturbing” to the student culture’s desire for “black letter” law. Some of the very attempts to impose a decorum of secularism in public that are part of the discussion at this conference have been used to try to impose silence on me. Remember that your arguments for the secular will have consequences you may not intend. One of them in my opinion is that you will not have Catholic law schools dedicated to a Catholic vision of social justice, if you prevail.

Key to this anti-religious tack in the cold civil war is that many who lead the movement for social justice will be characterized as were the Furies: wild, emotional, demonic, uncontrollable, too personal. Passionate women and people of color will be seen in the uniform of the unreasoning, illogical “Other Side,” and targeted. Those who speak with voices of spirit will be ruled out, marginalized, silenced. The “Other,” the Alien, will be excluded from the community. Many of

those most needed to call the community to account will be labeled like the Furies, the Daughters of the Night, and expelled.

Here I turn to the individual who I am, to begin again. In Professor Sullivan's paper, she brings to us the testimony of prisoners who wish to wear religious jewelry. Again, I hear her paper differently here and now than I did reading it last week—in part perhaps because I have changed my religious jewelry. For about nine years, I had worn daily a plain wooden cross given to me by a Conservative rabbi. It was a gift to me from "anOther," across the abyss of difference. Once, I tried explaining what it meant to me to Anne and Uncas McThenia when I was visiting Professor Sullivan's Washington and Lee. I talked about its power for me, its being something apparently physical yet gathering a deeply creative and protective and loving presence . . . and Anne pronounced simply that it was "a sacrament." It was indeed something that participated in the Spirit in a way that carried it beyond mere "artifact"⁵ and transformed its very being; just because the grace of it was not visible on a spectrometer (much less directly), it was no less sacred and somehow apprehensible in its difference. The day I left for this conference, my husband gave me what I now wear—an oval medal with *la Virgen de Guadalupe*⁶ on it, the image of the Dark Madonna.

This, too, is the gift of anOther, the gift of the reflection back to me of the divinity of the feminine—and the dark, the indigenous-and-the-colonizer, *la mestiza*. It reflects where I am now—I am no longer in Wisconsin, Dorothy. I have wonderful memories of twenty years in Wisconsin; yesterday, sitting next to my law school classmate Dan Blinka, listening to our professor Mark Tushnet, those heady days of the first Critical Legal Studies conference at UW came to mind with pleasure. But now I am in South Texas, and the law of the alien is a very different law than that of the Nordic Wisconsin I left ten years ago. In San Antonio, the law of the alien has just this week turned into the law of deportation, disenfranchisement, and dispossession. My husband, in the call about my tenure vote, also talked about the voices on the radio in San Antonio, voices of brown people asking what they were to do now. They, their parents, their grandparents, were no longer safe, no longer had Medicare, or the communal provision that non-alien still have. "Are we just to commit suicide? Should we just kill our parents because we cannot provide for them in their old ages?"

5. This term, used in Professor Sullivan's initial presentation, is a common "scholarly" referent for religious jewelry, statues, rosaries, communion vessels, and even Torah scrolls.

6. See VIRGIL ELIZONDO, *GUADALUPE MOTHER OF THE NEW CREATION* (1997).

people asked. People who worked all their lives, paid taxes for ten years, had children and grandchildren who were citizens, found themselves savaged by laws distinguishing them by their having been strangers in our land at one time, returning them to the status of despised Other. These are the new laws enacted in 1996.⁷ They are called welfare reform and anti-terrorism laws; they function as a war against the generations-old fact of migration of brown people into the empire of the United States. They devastate hundreds of thousands of lives. Sometimes the law becomes the Fury.

The law that becomes the Fury is the figure Socrates did not address in his final dialogues.⁸ In his conversation with Crito, Socrates talks of his daemon, the inner voice that tells him when he must not do something, and of the inner dialogue he has with the laws who have nurtured and sustained him, the *Nomoi*.⁹ In the usual "religion of the law school classroom" we do not mention that the figure for whom our teaching style, the Socratic method, is named talked to himself or heard voices. But the two sources of publicly-unavailable discourse on which Socrates hung his very life and identity are necessary to the story. Only the intensely particular guidance given by the daemon can carry Socrates through his remarkable speeches to the Athenians; only the voice of the community in its most general incarnation as the *Nomoi* can still the sound in his ears of Crito's urging to flee. But Socrates explains to Crito that the reason he must continue to honor the laws is because they have not been unjust; men have. The faces of the law run amok, of law systematically abused or of evil laws, do not appear in the dialogue. This is clearly not because Socrates thought all laws just, because he discusses prior regimes and the contrast of forms of government, not all of which can be the just form. So Socrates has chosen to affirm the Athenian political system (by his staying, the *Nomoi* suggest, and engaging in philosophical discourse) but would he have been obligated by the laws had they disenfranchised him because of his race or gender or religion? If he had experienced law as the jury

7. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, enacted August 22, 1996, Pub. L. No. 104 - 193, 110 Stat. 2105; Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Enacted September 30, 1996, Pub. L. No. 104-208, 110 Stat. 3009; Antiterrorism and Effective Death Penalty Act of 1996, enacted April 24, 1996, Pub. L. No. 104-132, 110 Stat. 1214.

8. Socrates, *The Apology, The Crito, The Phaedrus, in PLATO: COLLECTED DIALOGUES* 3, 27, 475 (Edith Hamilton & Huntington Cairns eds., Lane Looper et al. trans., 1961) (1954).

9. PLATO: COLLECTED DIALOGUES (Edith Hamilton & Huntington Cairns eds., Lane Looper et al., trans., 1961) (1954).

in the O.J. Simpson trial did, would he have seen the Nomoi as Furies? Even John Rawls, master rationalist,¹⁰ reminds us that those systematically denied dignity under law are not obligated to obey the law. People who have lived faithful to the requirements of law and are then turned out into the unendurable world of no health care, no provision for poverty, need or old age, must look for something new about law in order to hope to live in a lawful community.

One key symbol for that hope for lawful community is visible in the photographs of United Farmworker gatherings: *la Guadalupana*, the Virgin of Guadalupe. In her feminine oval, she manifests the things not known, the mystery inherent in human free will and G-d's silence. Her brown face like Patricia Williams' "round brown face" in the Benneton's doorglass,¹¹ is incongruent with the images of the Nomoi we have had for millennia. In the past, the forces of law have been imagined in white marble, formulated and reported by men, argued in the empirical, secular rational that pretends to knowledge. Always lurking among those tidy spaces have been, to use William's powerful totem image, polar bears. Williams' text, explicitly crafted to undermine the old way of writing law, features bears padding quietly through the strands of legal hermeneutics, the threads of sociology of legal knowledge, the tendrils of literary analysis and the tentacles of law school politics. Sometimes without bidding them, sometimes for solace, she enfolds herself in polar bear spirits and uses them to mark the places she has been, to keep her place as she refuses to stay in her place. There are bears about in her text, and they are much like the "large, difficult to soften"¹² spirits named the Furies that Aeschylus tells us Athena put in charge as the steering spirits of the law. The movement of the Furies underground, renamed the Eumenides, was a paradoxical passage into invisibility and power at once. These daughters of the night, these powerful dark feminine spirits, are according to the saga of the triumph of Apollo, the sun-god of Greek classical civilization, both necessary for the foundation of the legal order and for any household or polity to flourish. Now that the dark feminine is moving into the public space once again, now that William's brown face adorns the cover of her best-seller about the inherent psychosis of a black woman corporate law professor, perhaps we need to re-think this Fury stuff.

For the return of the Furies to visibility is part of the return to the

10. See JOHN RAWLS, *A THEORY OF JUSTICE* (1971).

11. PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 144 (1991).

12. AESCHYLUS, *ORCHESTEA* 160 (Richmond Lattimore, trans., 1953).

naming of the sacred out loud, in public. The wild dark forces previously demonized as Other are manifesting in the world, and rising in the world-soul. That locus of ever-mysterious Oneness, the one pointed to by Emerson's Oversoul or the Cultural Unconscious (or demi-conscious), is melding with its ice-tip and revealing that it has been there all along. What Salman Rushdie called the "God-shaped hole" is a hidden reservoir of energy for human society and for justice. Without the resources of language that have been interred with the Furies, we would not be able to address clients or juries or judges adequately. We would be left with the language of violence that Robert Cover chronicled,¹³ the empirical thud of orders for execution of sentence.

Some parties to this conversation about religion and law think that the linguistic thread of the Furies, of the silenced women of color, brings reverse racism and sexism. They think that the tenor of the poetic feminine—emergent in Wittgenstein, a brilliant, privileged blue-eyed Catholic-raised scion of immensely rich Viennese Jews who reigned in the heart of Anglo analytic academics—is irrational to the point of raising the specter of the Inquisition. Our very culture will crumble, the Holocaust will recur, chaos will triumph if the Other's mystical voice is allowed in the law.

Of course, most of these parties have a strange mix in their own voices. Thus Peter Brimelow in his clever attack on Others, *Alien Nation*,¹⁴ raises the terrifying prospect of non-European immigrants dismembering the United States, and rallies the reader to protect this our culture . . . yet the reader then meets a culture that is founded on its own mysterious non-rational identity. As the European is the norm, the threat of the alien, the other, the non-Anglo, is that the alien will sunder the "mystic chords of memory . . . to every living heart and hearth stone."¹⁵ Brimelow is of course quoting Abraham Lincoln, whose "mystic chords" ironically embraced the hitherto invisible alien, the African Americans who had been here since long before most of our ancestors. The slave trade had long stopped by the time the majority of your or my forbearers arrived in this land; we immigrated into a land already occupied not only by Indians and *mestizos*, but also by black people, along with the Anglos who wrote the history books. My next-

13. ROBERT COVER, *Narrative, in VIOLENCE AND THE WORD* (Martha Minow et al. eds., 1992).

14. PETER BRIMELOW, *ALIEN NATION: COMMON SENSE ABOUT AMERICA'S IMMIGRATION DISASTER* (1995).

15. *Id.* at xix.

door colleague at St. Mary's, Beto Juarez, is twelfth generation Tejano; he frequently shakes his head over the influx of the Davy Crockett generation, not to mention the hostage-taking "Republic of Texan" Richard McLaurin, an immigrant to Texas just fifteen years ago. The mystical tradition to which the conservative rationalists lay claim is a construction even further from situated facts than most, as all such constructions must be to some extent. But they do lay claim to that tradition as mystical.

The mysticism of the great besieged American culture cuts both ways on the religion issue. The version of religion that the conservatives champion tends to be Protestant and conservative. These cultural mystics, through the combination of the politics of retrenchment and the phobia of (the wrong) religion, would silence the non-dominant religions and any progressive movement those religions might foster. The religious ground that nurtured peaceful but fundamental change both for the Civil War abolitionist movements and the mid-twentieth-century Civil Rights movement, would be strewn with the figurative corpses of demonized "liberals" like Dorothy Day and the dean at my law school, Barbara Aldave. Situated in South Texas, serving an area with only about 30% Anglos, St. Mary's law school was about 10% minority when Barbara Aldave arrived nine years ago. This fall, the entering class will be roughly 45% minority—and that transition has been accompanied, in a universe of falling applicant pools and lowering numbers for most law schools, with even or better "numbers" on the tests and mono-tradition indicators that St. Mary's compiles but challenges. Yet the dominant commercial culture is wild to get rid of her, and blames her for all the controversy.

Who causes the unrest, who disrupts, who is the agent of controversy? The wild women named the Furies? The (mostly) wordless polar bears? The Nomoi who have become the constructed evil feminine, the so-called Furies? The O.J. Simpson jury? The L.A.P.D.? The people who do their public jobs with an eye on book royalties, or campaign contributions, or the police retirement fund? The people without the papers that call them citizens who have in fact begun to commit suicide? The people with papers that call them citizens who live in *colonias* within the San Antonio city limits without sewers, plumbing, electricity or street signs? In the theme of the daughters of the night, the "enemies" of the law, one more figure needs to emerge.

I invoke the Nomoi and Furies and bears in my Jurisprudence class, and the students play with the daemon's voice, the voice of conscience,

the soul, along with these strange representations from our Greek lexicon and Williams' mysterious place-marker bears. They engage in the search for understanding about the ineffable, the mysterious, the unknown in the law. This semester, they seemed to locate something about right relation to law in another feminine, sacred figure—a nun. She is not exactly the dark madonna, but she did joke about “sisterfashion” for the Academy Awards, as she borrowed the requisite black-based clothing to see if the movie based on her book would break into the ranks of Oscar-winners. This semester my students read Helen Prejean's *Dead Man Walking*,¹⁶ and its author, a deeply religious, poetic-and-ordinary woman with a south Louisiana lilt became the depository for more musings than anyone else with whom we dealt. Part of this was because she invoked as sacred the very ground on which class discussion would reach a remarkable place. In the book and subsequent interviews, she named the experiential place of having lost a close family member to murder as one she could only address, not presume to occupy. She wrote with passion against the death penalty, and she talked with compassion with those who had experienced the loss that called forth the desire for revenge. Her gift of space to the reader—that she was not arrogant enough to say she knew what her position would be if her mother or sister were murdered, though for her own murder she would not want the killer executed¹⁷—was passed along to the class, and the second time I read that passage, the invitation was accepted. The next class, a quiet student promised, he would be willing to talk about his mother's murderer, then on Death Row, whose execution he wanted.

As a long-time advocate, marcher, and vigiler against the death penalty, I felt Prejean had led me gently through an abyss I would otherwise probably have fallen in without ever noticing. I do not imagine that I would have had the grace of language to offer sacred ground so clearly as she did. It is not that the class produced a mass conversion, or some great catharsis. It did change one mind, and I think moved several hearts whatever increment that such dispensation allows—and it educated my soul—but it also gathered the movement of talk around this strange creature: a Catholic nun with a lyrical realism and a vibrant, funny, wrenching faith. The class discussion about the law, the reaches of its violence and blessing, the rage for death that the death penalty law enacted, presented to the students a face of the

16. HELEN PREJEAN C.S.J., *DEAD MAN WALKING* (1993).

17. *Id.* at 21.

Furies. What is the difference between the endless cycle of revenge that the transformation of the Furies into the Eumenides (the Kindly Ones) and their relocation underground supposedly ended, and the blood-cries outside prisons on execution nights? And must not both furious faces, the ancient and the contemporary, be loved?

I do not know the answer to these questions in any doctrinal way. I know they have something to do with accepting, complexly, the humanness (and cultural prevalence) of my student's deep feelings that death requires death. And I know I can only hope to give such full, true space in dialogue because of my faith. Reason alone would not suffice to contain the paradox of death into which this soft-accented nun has walked so directly. And I know that something about her journey and incredible strength in not condemning anyone in the whole grisly, agonizing dance of state-constructed death, comes to my students as emblematic of the unknown power of the Furies.

I think they are right to say that Helen Prejean is somehow different than they are, and that they are not just saying that to let themselves off the hook. Aside from one denial-like assertion that those nuns were safe in dire environments because they were nuns (El Salvador screams in my head, nun after nun raped and murdered in the wars we practically staged in the countries south of us), the students posed her as stronger, better than they. They accepted themselves yet aspired—to grow in forgiveness, to move out of fear, to touch the sort of compassion she manifests. She was both safely Other and yet inspiringly so, with a measured aspiration. The measures, of course, are student loans, survival, the “real world.” The secular markers, pragmatic markers.

And the “something more” to which markers beyond survival aspire is about spirit. In the multiple-consciousness world that we already inhabit, a coherence of selves is no mean task. One of the most striking of Professor Sullivan's wonderful images of prisoner belief is the multiple religious personality, the one who can only seem pathological at this point when we cannot imagine such a person as integrated or whole. I believe that is because only God can truly integrate multiple religious traditions (although we can participate in more than one, in some ways even deeply) and only spirit can hold us in right relation while we experience the fragments of relationship to God. Thus Prejean was a likely candidate for the irrepressible, eloquent, gentle, furious feminine spirit figure in my class in a Catholic law school (in that setting the one Jewish student already had a sense of the tradition, even as she kept us well aware of its limits). So the Furies are, like

Professor Sullivan's multiple personality prisoner, many. The play makes clear they are a corporate group, a community, a multiplicity in one. And they are feminine forces of mystery, power, history and promise, forces without whom law cannot function.

The thread of Prejean's presence that brings me back to the beginning of this paper is the poetic. One of Wittgenstein's most-quoted mysterious sayings was that philosophy now must be written as poetry. Although we are unlikely to settle what poetry is, the law as currently written by the authorities of the law in the United States is decidedly prosaic. The overwhelming majority of Supreme Court rhetoric is secular analysis in the least inspiring genre of prose. On the other hand, law and literature has an increasingly irresistible presence in the law, one attested to by Professor White's presence on this panel, one that begins to soften the boundary between law and poetry. Prejean's book demonstrates the confluence of lucidity and melody, of passion and reflection, of numbers and the numinous. She is in fact a poet, but her book would tell us that without the biographical asides. She calls to mind G.K. Chesterton's small tome, *The Man Who Was Thursday*, in which the paradoxes of anarchy and law among "poets for the law" are woven into a prophetically post-modern morality-mystery tale. Perhaps the Furies are more closely related to the Muses, that other bunch of females central to Greek myth, than we have realized.

And this emergent complexity of language in a text not labeled "poetry" is for me a tell-tale of Professor Sullivan's paper. In the least likely places, she traverses the poetic-philosophic, doing in plain sight what she has hidden by ostensibly merely issuing an invitation after a scholarly discussion. Subverting the very taboos at issue, she has let her prisoner voices into the text and located them so they are not merely the objects of analysis but also the subjects of religious faith speaking in public. In response, she has roused Nomoi, bears, Furies, and holy women. She has facilitated stories of the dispossessed victims of calculated law. The discourse she has inspired in me is an answer to the awful self-disclosed tragedy of writing like *Alien Nation*.¹⁸ Having come back from Marquette to St. Mary's and taken advantage of conversation with the dedicated and insightful co-director of St. Mary's Immigration and Human Rights Clinic, Lee Terán, I realized what that book declares. Seeming at first reading to pronounce judgment on our influx of Others, it actually gives away the author's state of being. Instead of embracing the gift of undocumented people and Others among us,

18. See BRIMELOW, *supra* note 14.

Brimelow has repudiated our *Alien Nation* and documented his own *Alienation*. It is not the nation that is alien, but Brimelow who has lost relationship with the part of himself that the Whole of humanity constitutes. The Oversoul, the Communion of Saints, the Worldspirit, Compassion for all things, the One, the Tao, the No-Thing, all point to how we interrelate in this life context together. Brimelow's attempt to cut us off from part of our context—from those "least of them"¹⁹ to whom we are bound by what religion tries to acknowledge (re-ligare, to bind again) ironically affirms his own alienation in painful detail. *Alien Nation*, *Alienation*, are two faces looking at one another. Brimelow sees the enemy—and does not know it is a part of himself. The law is busy trying to drive back across a border a people who are already among us; when law turns us against our own, it cuts us apart more intricately and lethally than ever did a simple Mason-Dixon line.

III. CONCLUDING MUSINGS

If I would try to suggest a theme, then, to my remarks, it would be about law's alienation. It would point to the attempt to dissociate law and religion as a movement of alienation, one much like the relegation of the Furies to invisibility and silence underground. To drive spirit from the law is to alienate law from its indefinable, dynamic source of animation. We need the Other for wholeness. Law needs the anarchic bent, the mysterious spirit, and the resistant individual, as analysis needs synthesis. Religious talk is most fundamentally about One whose ways are not ours. Although it can be and has been used to fabricate and impose a false unity, religion still locates that aspect of the human without which we are more deeply alienated than any other false division could render us. Law needs spirit, law needs poetry. It also needs the stories of individuals. Professor Sullivan has brought us those stories into the space James Boyd White helped clear for them, and Professor Greenawalt has affirmed their necessity, and I have tried to tell you how some of them live in faithful tension with the law. Throughout, I have tried to convey the power of law's "enemy" and to bring to mind some of the figures that portray the incalculable, the unknowable, in the law. I hope you will make them welcome.

19. This is how Jesus referred paradoxically to the hungry, poor and imprisoned—and to himself. *Matthew* 25:34-46.