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# Aeschylus' *Eumenides* and Political Impasse

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## Abstract

What can we do in the face of irreconcilable conflict, when two opposing parties (be they individuals, groups, nations) have disagreements in which there seem to be no common ground, no hope for resolution? Further still, what do we do when both sides of an argument appear to be rational? In this paper, I explore this kind of 'tragic' impasse through the lens of Aeschylus' *Eumenides*. This play has been taken by some scholars to be the precursor of the Western legal system (establishing the jury trial and neutral, third-party judge). Others see it less optimistically, as a portrayal of a misogynistic abuse of power. I diverge from these lines of interpretation and suggest that the *Eumenides* offers a useful approach to disagreement, building on the idea that those bitter struggles that result in impasse can be resolved only through a deliberate reorientation of identity, guided by an engaged judge whose most important actions come after the trial.

Key words: Aeschylus, political impasse, judgement, identity

## 1. Introduction

Aeschylus' *Oresteia* is beset by conflict: conflict between parent and child, husband and wife, reason and emotion, between the public and political and the private and personal, between man and woman, young and old, bright sky and dark earth.<sup>1</sup> These conflicts cut through the plays in every direction, dividing them across almost every conceivable line. Given this, one might well approach the trilogy with an aim to discover just who is right — which person, which group or entity, has chosen the path that is good and just? Whom should we root for? Sadly, a close reading of the *Oresteia* reveals that its conflicts rarely point to definitive answers to these questions. More often than not, the sides involved in the struggles represented all have some sound reasoning behind them. What then can we make of these plays? Do they leave us in a state of inescapable *aporia*?

This, thankfully, is not the case. In what follows, I suggest that a close, contextualized reading of the *Oresteia*, and in particular, the *Eumenides*, can help us consider a different approach to conflict, one that does not impose a stark — and comforting — dichotomy of right/wrong onto the messy and imperfect world of human choice and

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<sup>1</sup> Translations are Lattimore's unless otherwise noted.

action. Instead, it pushes us to resist that persistent urge to judge quickly (based on superficial emotion, or indeed on superficial reason), and forgo rushing headlong to an end, with a tidy verdict of guilt or innocence. The characters and actions found in the *Oresteia* defy such a simple, binary structure.<sup>2</sup> Instead, they demand we immerse ourselves in all their multi-faceted particularity. There, amidst the myriad details of sides that seem initially to be utterly incompatible, we can unearth commonalities. With these as tools, we can move forward, motivated not by the overriding desire to blame, punish and exclude, but rather with the conviction that given a willingness to soften and enlarge both our own ossified identities as well as our superficial understanding of others, we can move beyond impasse and create new, well-functioning political spaces. Thus it is through close attention to context and particularity, through a deeper analysis of the vast and often hidden expanse of identity, that we can come to see the ways in which opposing sides are in fact much richer and more connected than those lofty principles that define and perpetuate conflict. Capturing and exploring these moments of overlap and commonality, even if initially faint and invariably fragile, makes it easier to let go of grievances and rage, and to make room for meaningful justice and lasting peace. This, however, is not easy for hostile and defensive opponents to do alone, and it is here that the *Eumenides* illuminates a striking approach to overcoming impasse by way of an alternative to the traditional judge.<sup>3</sup>

My argument here rests on the assumption that political impasse can be overcome through a deliberate reorientation of identity, itself supported and guided by an engaged and active judge.<sup>4</sup> The judge in the *Eumenides*, we will see, is not an ideal and unbiased adjudicator of the case before her.<sup>5</sup> She does not have a kind of privileged insight that allows her to see the Truth buried in the hard case before her — indeed, a genuine impasse implies the absence of such a Truth. Yet, despite her undeniable prejudices, she does not interpret law arbitrarily. Rather she interprets it and actively applies it conservatively, and explicitly according to a tradition that favors men. I do not wish to argue that this represents justice, I only wish to highlight that that a real impasse exposes the partiality of *any* judgement given in relation to it. So, when I praise the judicial activity found in the *Eumenides*, it is an activity that comes not when we might most expect it, i.e., at the decision

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<sup>2</sup> For an examination of this kind of binary thinking in the Greek world, see G.E.R. Lloyd, *Polarity and Analogy: Two types of argument in early Greek thought* (Cambridge: Hackett, 1992, repr.).

<sup>3</sup> My exploration of this alternative judge, or more precisely, of an expanded understanding of what a judge's role might be, thus falls somewhat outside the central issues at stake in the law and literature movement. While there are certainly some overlapping concerns, my primary aim is to outline the parameters of an expanded judicial role, and not to comment on the *Oresteia* as a form of 'law in literature' or Athena's verdict as 'law as literature'.

<sup>4</sup> This kind of 'engagement' builds on the work of P. Euben, *Corrupting the Youth* (Princeton: Princeton University Press, 1997, p. 37). It also bears some resemblance to Amartya Sen's Smithian 'impartial spectator' insofar as the judge I wish to present here is definitively outside the dispute yet is neither omniscient nor transcendent. For Sen the main function of the spectator is to offer a different/distant, though thoroughly embedded perspective—the approach is comparative not transcendental (*The Idea of Justice*, Cambridge: Harvard University Press, 2009, pp. 44ff.; 120ff.). This we will see is somewhat different than the active judge I present below.

<sup>5</sup> The view of a judge who is inescapably entrenched in her context/'situation' and who therefore cannot be a source of legal Truth (even in this case, as a god) is reflected in Gary Minda's discussion of postmodern legal movement, which abandons notions of 'foundations, essences, objectivity and autonomous law' (*Post-modern Legal Movements: Law and Jurisprudence at the Century's End*, New York: NYU Press, 1995, p. 243).

phase of the trial. Instead it *follows* the trial, at which point the judge takes initiative in the construction of a new political space for former adversaries to occupy. More specifically, having listened to both sides during the trial, and given her judgement (which is necessarily imperfect), the judge then provides suggestions for concrete alternatives to the ‘losing’ party. She offers explicit choices to those who have been ruled against by illuminating aspects of their character they might choose to prioritize. This is not part of the ruling per se, but rather an addendum to it, the style of which or not so important.<sup>6</sup> In doing so, they find the possibility of being recognized and empowered: the impasse is constructively overcome by a creative response oriented to the future rather than a static verdict stamped on the past.

Why is this relevant to politics today? Obviously, the impasse we find in the *Eumenides* has no direct parallel in contemporary politics, and it is not my aim to distort the particular details of the play, to violate the integrity of its specificity, in order to extract a moral lesson ‘for us’.<sup>7</sup> But I do want to suggest that impasse then and now, whether between factions within a single family or country, or between autonomous nations and states, cannot be resolved in any meaningful way by celebrating winners and purging losers. There is thus a thread that extends through our common human history which cautions against neat (and false) resolution based on reductionist, binary logic. Real and lasting resolution demands that we abandon this kind of rigid and mechanical thinking. To condemn, isolate and exclude groups, even those that seem to us most immoral and repugnant, is to cultivate and foster political strife, breeding resentment, hatred and violence. Furthermore, it blindly and lazily denies the magnificent human capacity to reorient, to adapt and to create.<sup>8</sup> Just as individuals cannot make their uncomfortable emotions simply disappear, political groups — at both the domestic and global level — cannot make those they deem offensive or evil disappear without grave risk to the well-being of the whole world. My hope is that the *Oresteia* can reveal an inclusive and creative response to conflict and judgement.

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<sup>6</sup> Again, I emphasize here the fact that this is not a call for judges to be more literary in their opinions (thus I am not directly countering P. Nevel (‘Judicial Opinions as Literature’ in Brooks and Gewirtz (eds.), *Law’s Stories: Narrative and Rhetoric in Law*, New Haven: Yale University Press, 1996, pp.206-10 — though I do not endorse his views entirely). Instead, I argue that judges should strive to guide involved parties to prioritize aspects of their (necessarily and essentially) relational selves that are most conducive to individual empowerment and social harmony — the way in which he/she does this is not my concern here.

<sup>7</sup> The utility of drawing on a range of sources (ancient, modern, historical, literary, legal, anthropological) is explored by Mittica in *Raccontando il possibile* (Milano: Giuffrè, 2006). Though Mittica is primarily concerned with the use of varied material to make legal judgements, a more general principle stands behind her idea which is relevant here as I try to use the *Oresteia* to understand ‘our’ world: while the *Oresteia* is undeniably not ‘us’ it can nevertheless offer us an alternative ‘parte del reale’ (p. 17) which might in turn expand our own necessarily situated perspective and offer us new ways to think about how to judge and what good judging entails.

<sup>8</sup> In his study on *miasma*, Parker writes that ‘in historical practice...oracles seem to have been more likely to urge communities to set up a statue to Apollo than to drive out the impious one’ (*Miasma: Pollution and Purification in Early Greek Religion*, Oxford: Oxford University Press, 1996, p. 280). One might interpret this broadly and figuratively as an indication that expulsion and exclusion were not as common as construction and creation.

## 2. Violence and Justice

The two plays in the *Oresteia* that precede the *Eumenides* portray a terrible sequence of events, a repeating pattern of violent and vengeful actions and reactions.<sup>9</sup> Prior to the third and final play, we encounter a father who has killed his innocent daughter, an army that has inflicted excessive violence on its enemy, a deceitful wife who kills her husband, a thankless son who murders his mother. However, from another perspective, we might see these very same events as, respectively: a general bravely doing his duty and saving his stranded and suffering troops, victors punishing their defeated and treacherous opponents, a woman at last asserting herself and fighting back against a cheating and arrogant husband, a patriotic son defending his city by avenging the murder of its king. That which connects the various interpretations is the fact that in each case characters act in an attempt to 'balance the scales' of justice and restore equilibrium to the deeply shaken world in which they live. However, depending on which motive one traces, just how and where one carves the joints between cause and effect, the actions portrayed take on quite different qualities: the 'balancing the scales' from one point of view can be seen as a gross unbalancing from another. One thing is clear, the actions in the plays prior to the *Eumenides*, whatever their motives, perpetuate — voluntarily and deliberately — a cycle of violence that feeds on itself, and in its wake, generates profound despair and anger with no foreseeable end. No action springing from blame and criticism seems to do anything to free characters from the sticky web in which they are stuck.<sup>10</sup> Even the most superficial glance at regions of conflict in the world today reveal similar patterns of retributive violence.

Thus we are left in a difficult position: blaming, excluding, and (too often, violently) reacting in equal measure, though perhaps immediately quite satisfying, ultimately yields few enduring good consequences.<sup>11</sup> Still we want to preserve our ability to identify, judge, and, to some degree at least, punish what we perceive to be wrongs done. We want to be able talk coherently about responsibility, about just and unjust actions, and more broadly still, about better and worse choices about how to live. So when we examine the many conflicting perspectives in the *Oresteia*, or indeed, when we analyze political conflicts today, we can — and I would say, we *must* — make judgements. But we must do this very

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<sup>9</sup> In *The Human Condition*, Arendt makes a wonderful argument about the power of forgiving as that which can release us from such a web (Chicago: University of Chicago Press, 1998, 2<sup>nd</sup> Edition, p.237). Her notion of forgiving is, closely connected to the kind of reorientation I advocate here insofar as both reorientation and forgiving demand the release of tightly held grievances thus feeding one to turn and change.

<sup>10</sup> See A. Bilgrami, 'Gandhi, the Philosopher' on Gandhi's understanding of criticism, specifically the notion that criticism tends not to be productive or persuasive to others with different views, but generally breeds defensiveness, which in turn often leads to violence (<https://philosophy.columbia.edu/files/philosophy/content/BilgramiGandhi.pdf>).

<sup>11</sup> See M. Nagler's distinction of what 'works' vs what works in *The Search for a Nonviolent Future* (California: New World Library, 2004, pp. 87ff). This chapter urges us to think about cause and effect from a different perspective, revealing that our reductive and narrow conceptions of action and consequence often lead us to misidentify success and failure, which in turn tends to perpetuate a reactive cycle of violence. Similarly here, in the *Oresteia*, there is the delusion that just one more murder will mark the definitive end of the terrible violence rather than act as yet another spark for continued brutality. Violence and retribution, as Nagler powerfully demonstrates, 'work' in the short-term, and at a very superficial (and unfortunately, immediately gratifying) level. Nonviolence, initially perhaps the harder path, in fact *works*, it 'moves forward towards stable peace'.

carefully. That is, we must listen to and genuinely engage with even those whom we believe are vile, corrupt and degraded — whether they be religious fanatics, power-hungry dictators, or profit-chasing multinational corporations. It is not solely a lofty principle of tolerance that fuels this conviction. The reason for listening and engaging, and more, for being generous and inclusive, is also pragmatic and prudent. Just as we will see that the mighty god Apollo could not, through sheer force of will, drive the Furies away, we cannot alter the hard fact that groups we find contemptuous exist. And they are not going away. However, as human beings, as states and less formal communities and networks, our characters and identities are incredibly rich and our commitments, diverse and wide-ranging. This breadth and depth of identity is our most effective resource in any conflict, for it allows us to adapt and create new, inclusive spheres of interaction. Discovering the range of role we might play in any given context, and choosing to occupy one rather than another, is an active, ongoing and at times, incredibly difficult process. The *Eumenides* indicates some vital tools we might use in this endeavor.

### 3. Responding to Conflict

Before a more systematic discussion of the *Eumenides*, I will briefly review the two plays that precede it. The *Oresteia* begins with the *Agamemnon* and the *Libation Bearers*, where we follow the tragic paths taken by various members of the House of Atreus and those caught in its web.<sup>12</sup> Agamemnon, the formidable Greek general, had been heading to war in Troy when the angry goddess, Artemis, brought him unfavorable winds, stalling his departure and threatening the livelihood of his troops. At the port of Aulis, Agamemnon is given a terrible choice: either sacrifice his daughter, Iphigenia, and receive the advantageous winds he so desperately needs, or let his troops suffer and die, effectively surrendering the war. He chooses to sacrifice his daughter, and as hoped, he is victorious at war. On his return to Argos (with his concubine, Cassandra in tow), his wife, Clytemnestra (who had, in his absence, taken a lover, Aegisthus, Agamemnon's cousin) kills Agamemnon, the king. Orestes, Agamemnon's son, then returns to Argos and kills his mother, Clytemnestra, for her murder of Agamemnon, his father and king. Immediately following this matricide, Orestes is haunted by the ancient goddesses, the Furies, and flees Argos to Apollo's temple at Delphi in the hope of purification and peace.

The *Eumenides* thus opens with an entrenched conflict between two groups, staunchly opposed and severely judgmental. I begin below by exploring two defensive reactions to perceived evil: the flee response and the crush response.

#### 3a. The Flee Response: Orestes

When we first encounter Orestes, he is neither in Argos nor in Athens, but at the temple of Apollo at Delphi, outside the boundaries of any city, literally beyond the structure of

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<sup>12</sup> For analyses of the theme of entrapment, of characters being 'yoked' by circumstances (either internal or external), see the introduction to A. Shapiro and P. Burian's translation of *The Oresteia* (London: Oxford University Press, 2003, pp. 34-5); and T. Gillcrisp, 'Darkness, Light and the *Oresteia*' (*Reed Magazine*, vol.90, No.4 12/11).

established laws and norms. His murder seems to have wrestled him from the man-made order of the *polis*, and thus his situation challenges (at least, symbolically) the very scope of political authority.<sup>13</sup> Orestes has fled Argos in terror to escape the wrath of the Furies (themselves the manifestations of own conflicted and unresolved feelings).<sup>14</sup> These archaic goddesses appeared almost immediately after he killed Clytemnestra, 'gorgon' like, with heads of 'hundreds of writhing snakes'. Multiplying in number (*plethousi*), eyes dripping with blood (*ommaton stazousin aimā*) the Furies hunt Orestes like hounds (*kunes*).<sup>15</sup> The Furies are old, chthonic, female deities from deep in the earth, rising up, enraged, on behalf of Clytemnestra, struck down by her own son.<sup>16</sup> Orestes is not only tormented by these predators, but is also isolated by them: he feels he is the only one who can see their hideous form and hear their taunts, 'You do not see them [the Furies], but I see them!'.<sup>17</sup>

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<sup>13</sup> This is not to say that political authority is denied or undermined definitively, only that its limitations are exposed. For an extended discussion of geography in the *Eumenides*, see, R.F. Kennedy, 'Justice, Geography and Empire in Aeschylus' *Eumenides*' (*Classical Antiquity*, 2006, vol. 25/1, pp. 35-72).

<sup>14</sup> Orestes' choice to kill his mother was not made with ease, nor indeed was Agamemnon's decision to kill his daughter. Both men admit to being caught in their terrible situations, and unhappy with either choice before them. Before sacrificing his daughter, Agamemnon says, 'My fate is angry if I disobey these/ but angry if I slaughter/ this child, the beauty of my house/ with maiden blood shed staining/ these father's hands beside the altar. What of these things goes now without disaster?' (*Agamemnon*. 206-11). And in the *Libation Bearers*, from Orestes, 'Behold in assembled power, curses come from the/ dead, /behold the last of the sons of Atreus, foundering/ lost without future, cast/ from house and right (*atima*). O god, where shall we turn?' (406-9). Each had effectively to silence a part of himself in order to carry out his heinous task. Agamemnon gags Iphigenia 'with guards/ against the lips' sweet edge to check/ the curse cried on the house of Atreus/by force of bit and speech drowned in strength' (*Aga*. 235-7), and Orestes asks for his own death after he takes that of his mother: 'Let me but take her life and let me die for it' (435). Simon Goldhill analyzes the 'double bind' in which Orestes is caught in *Language, Sexuality, Narrative* (Cambridge: Cambridge University Press, 1984, p. 136), and Anne Lebeck highlights Orestes' initial disinclination to use the word 'mother' as more evidence for the distress he experiences surrounding his terrible decision in 'The Oresteia': *A Study in Language and Structure* (Cambridge: Harvard University Press, 1971, pp. 122ff.). The sense in which both men are conflicted and end up making choices they are not comfortable with seems undeniable.

<sup>15</sup> *LB* 1049-50. For a discussion of the shifting referents for *kunes* in the trilogy, see Goldhill, *Language, Sexuality, Narrative*, Cambridge: Cambridge University Press, 1984, pp. 204-5.

<sup>16</sup> Hesiod's description of their origins identifies them with blood and castration. This makes sense of their acute concern for blood relations in the *Eumenides*, and in particular with women and mothers (*Theogony*, 176-88).

<sup>17</sup> *LB* 1062. We don't see the impact murdering Iphigenia has on Agamemnon directly in the way we do Orestes' murder of Clytemnestra, though both father and son express serious doubt about what is right to do *before* committing their awful deeds. Vernant and Naquet have written on this aspect of tragedy within Greek thought, that is, as representing the moment when human responsibility starts to emerge within what had previously been the sphere of the divine. More specifically, he suggests that tragedy and its representation of anxious deliberation before action mark a 'turning point, in the history of the Greeks' approach to the notion of the will' (*Myth and Tragedy in Ancient Greece*, New York: Zone Books, 1998, p. 71). One might contrast this with Homer's depiction of Orestes' revenge which indicates no internal struggle or debate — indeed it does not even speak of matricide! However, the notion is put forward there that the actions of mortals cannot be blamed on the gods entirely: for instance, in the case of Aegisthus, they stem from his own folly/arrogance, *atasthalieisin* (*Od* 1.30-40). In Aeschylus, for both Agamemnon and Orestes, the psychological and deliberate aspects of their actions form a much stronger part of the story. One might assume, for instance, that the literal gagging of his daughter represented a figurative gagging of a crucial part of Agamemnon's own psyche. The repression of compassion and love that would allow him to murder his



Teetering on the very edge of madness, he is encouraged to seek out Apollo at his temple at Delphi in order to be cleansed once and for all of these incessant reminders of his mother.<sup>18</sup> And it is here we find Orestes, having run to Apollo's temple at Delphi as instructed, yet hardly free of his persecutors.

His attempt to flee the awesome/awful Furies was, however, utterly unsuccessful. They remain with him even at this sacred shrine, and seem ever stronger: 'black and utterly repulsive', snoring 'with breath that drives one back'; from their eyes, a 'foul dripping ooze'.<sup>19</sup> Thus, Orestes' panicked escape, far from giving him distance from the Furies, does nothing to diminish their proximity and strength, but seems to make them yet more disgusting and more avid in their pursuit. They seem to fall gradually farther from what is comprehensible at a rational level; they are formless, as though slowly transforming into pure rage and indignation. Running from them, however understandable, succeeds only in deepening Orestes' own alienation from himself and increases the ire of the Furies, pushing hopes for peace and reconciliation further from the realm of possibility.

### 3b. The Crush Response: the Furies and Apollo

Even a cursory look at the Furies' response to Orestes reveals that they are not much better at developing conditions that might allow for fruitful discussion and debate, and eventual resolution. Their calls for blood, their mercilessness, their burning desire for retribution prevent them from being able to hear Orestes, who we have seen is frightened and vulnerable, and might have been able to converse had they approached him with a somewhat more tempered rage. Their fury, however, is so all-encompassing that it blinds them to all nuance and detail. To see Orestes as conflicted, for instance, to see him not only as a murderer, but as one who is in need of help (and help of a different kind than Apollo offers) would be to admit that they are more than their anger, and that Orestes is more than his matricide.<sup>20</sup> Such complexity is unsettling because it is illogical. It demands one recognize simultaneous yet conflicting reactions, and this kind of internal opposition

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daughter might in turn have resulted in his allowing (encouraging?) the excessively violent treatment of the Trojans by his own soldiers after the Greek victory. That is, one could reasonably suppose that the unjust and barbaric treatment of the Trojans by the Greeks might well have been spurred on by a leader who had previously silenced an important and humane part of himself. Some believe that the cruelty exhibited by the victorious Greek army after the war was already over, resulted in the loss of so many Greek ships on the return home (especially tragic, as it would have been precisely those soldiers Agamemnon hoped to save when he killed Iphigenia in the first place).

<sup>18</sup> While the extent to which the Furies represent Orestes' own feelings of guilt in Aeschylus' portrayal is debatable, they certainly reflect a kind of personal stain/pollution/miasma that needs to be cleansed in some way. One might note the very clear psychological slant we find in the same story as told by Euripides, where Orestes is very clear that his own conscience, *sunesis*, has been overcome and is in despair given the knowledge of what he's done (*Orestes*, 396).

<sup>19</sup> *Eum.* 51-4.

<sup>20</sup> Vernant and Naquet provide an illuminating analysis of Orestes' 'twofold nature': he is both guilty and innocent, himself and (easily mistaken for) Electra, his sister, hunter and warrior; hoplite and bowman, serpent and lion (*Myth and Tragedy in Ancient Greece*, New York: Zone Books, 1988, pp.154-6). By drawing on different aspects of identity at different times, this ambiguity and flexibility of character can help to find resolution.

is difficult to reconcile. And so the Furies to work to simplify the disagreement, to entrench even further the divide between the two sides: 'They do such things, the younger gods,/ who rule, wholly beyond justice (*to pân dikas pleon*).<sup>21</sup> The effort here is to accentuate and fix difference (young, headstrong and without principle vs old, wise and grounded in traditional values), to insult and isolate opponents with the deluded sense that such a divide will generate power for oneself. The Furies want to use their power to crush this depraved son with violence and force:

...like hounds after a bleeding fawn,  
we trail...I am here and give way to no ship in my pursuit...  
You must give back for her blood from the living man  
red blood of your body to suck...  
you must pay for the pain of the murdered mother' (vv. 247-69)

But strength from such a hate-filled source proves thin and fragile.<sup>22</sup>

Apollo's reaction to the Furies shares something with the reactions of Orestes' and the Furies in the sense that he too seeks to rid himself simply and definitively of a presence that makes him angry, defensive, and uncomfortable. While Orestes flees the Furies in terror, and the Furies lash out in a violent rage, Apollo's tack is somewhat different. Upon encountering the old goddesses at his temple, he takes a position of self-aggrandizing and righteous authority, of legitimate domination. Praising his own strength and steadfastness: 'See now how I have caught and overpowered these lewd creatures' (66-8), he denigrates the ancient goddesses, insulting them and their origins (70ff.). Apollo sets up here, and reiterates later, the same divisive opposition the Furies latch onto, distinguishing them as lowly goddesses of the earth, of heavy darkness, from the Olympian gods (of which he is one) as new, bright, and transcendent, residents of the open air and lofty sky.<sup>23</sup> Apollo uses the physical appearance of the Furies to fuel his simplistic vision of the world, and justify his use of violence. Increasingly terrifying to Orestes, Apollo takes their very form to be an affront to his own sense of order and reason. They are repulsive maidens (*katastuptoi korai*, 68) and aged children (*palaiiai paides*, 69): they embrace contradiction and confusion. The dark, old, emotionally oozing Furies infuriate and enrage Apollo, and he desires to crush them definitively and violently, through his own resolute determination.<sup>24</sup>

While Apollo's words certainly highlight the vileness of the Furies, they also reveal the superficiality of his judgment: 'The whole cast of your shape (*morphēs*)' he says, 'is guide to what you are'.<sup>25</sup> Apollo, like the Furies, is rejecting that which he instinctively deems evil with a blind and crude force, and no attempt to probe deeper into the details

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<sup>21</sup> *Eum* 160ff.

<sup>22</sup> Contemporary political rhetoric has some startling parallels: 'The best way to protect our homeland is to hunt the killers down one by one and bring them to justice' Bush, speech in Louisville KY, 2001.

<sup>23</sup> Images of Apollo commonly depict him as young, clean, fresh, and youthful, lacking even the hint of a beard.

<sup>24</sup> Earlier, Apollo encourages Orestes to 'run from [the Furies]' and 'never weaken' (*Eum.* 74). Orestes, he implies, can be rid of them by using his speed and strength. This, we have seen, is not the case.

<sup>25</sup> *Eum.* 193, the Greek word *morphē* refers more to outward form and appearance, not inward substance.

of either himself or his enemies.<sup>26</sup> This reduction and simplification of the Furies to their physical appearance is likely what leads Apollo to assume that he will be able to rid himself and Orestes of them through brute strength: 'You belong where heads are sliced away, eyes gouged out -- where justice is slaughter'.<sup>27</sup> But on this assumption, he is mistaken. Apollo can rid neither himself nor his suppliant Orestes of the Furies. Even as a god, he is unable to bend the hard facts of conflict, diversity and opposition to his wishes.

#### 4. Taking Sides

Gradually we come to understand the core assumptions of the two opposing arguments, initially at Delphi (197ff.) and later in Athens in the forum of a court created by Athena (418ff.). Yet even with the sides presented in a formal court, before an accepted judge and jury (in some important sense, representative of 'the people'<sup>28</sup>), there seems little hope for resolution. Simply having the room to air their views is insufficient for improved communication — both sides are too entrenched, too defensive, and too vulnerable to listen to and engage with the other. Each desires to balance the scales of justice according to a fixed and myopic sense of who they are, and an unyielding demand for what they rightly deserve.<sup>29</sup> As presented, their arguments lead to an impasse as they rest firmly on two ostensibly incompatible premises, which nevertheless share in sound reasoning.<sup>30</sup>

In rough outline, the Furies argue that blood ties are stronger than those of marriage. They claim that the biological tie between mother and son must be respected. To dishonor this natural bond — especially in such a brazen and sacrilegious act as matricide — is an affront to right and justice as the Furies define it:

O son of Zeus, Robber is all you are.

A young god, you have ridden down the old (female) powers  
(*graias daimonas*) grey with age,  
taken the suppliant, though a godless man, who hurt the mother  
who gave him birth.  
Yourself a god, you stole away this matricide.

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<sup>26</sup> One might note that the ghost of Clytemnestra also reduces and simplifies character, initially referring to Orestes, her own son, merely as 'man' (*aner*, 118). In this, she denies (however subtly) their unique and individual relationships. This kind of reduction of identity, this willful blindness to particularity, can so severely limit the potential for meaningful discussion and resolution.'

<sup>27</sup> 185, Johnston translation (<http://johnstoniatexts.x10host.com/aeschylus/oresteiatofc.html>)

<sup>28</sup> I would add that the fact that the jury was itself so evenly divided suggests how very deep this conflict was, that the impasse was not only between Orestes and the Furies, but that it permeated society and revealed a range of loyalties amongst the people.

<sup>29</sup> See P. Euben, 'Justice and the *Oresteia*,' (*American Political Science Review*, vol. 76, 1982) for a discussion of how justice can be distorted and constrained by narrow senses of loyalty.

<sup>30</sup> P. Mitica notes the way in which Aeschylus' own world was undergoing a transformation in which traditional ideas of authority based on *genos* (aristocratic, sacred, old) were being challenged by a new order embodied in ideas the *polis* (democratic, human, new. Aeschylus, Mitica suggests persuasively, is one of the key 'artist' who navigates this complex terrain which seeks equilibrium by integrating both ideologies, thus offering 'una forma di continuità tra l'ordine del *genos* e quella della *polis*' (*Raccontando il possibile*, Milano: Giuffrè, 2006, p.78).

What is there in this act that shall anyone will call just (*dikaiōs*).<sup>31</sup>

Apollo, on the other hand, asserts with a rigidity equal to the Furies', on the priority of 'married love' (*eune*, 217). He gives more weight to those pledges (*pistōmata*) of the sort made by Hera and Zeus (the newer, transcendent Olympian gods), and thus the matricide that the Furies so condemn he sees as an honorable act insofar as it respects the kinds of legal and deliberately chosen bonds he sees as worthy and legitimate. Orestes' matricide also recognizes Apollo's preference for the order and reason that come from prioritizing men, it 'returns the Argives to the rule of the male'.<sup>32</sup> Thus, on his view, the murder of Clytemnestra was just retribution for the murder of the king and head of household.<sup>33</sup>

Therefore, while both arguments start from acceptable premises and proceed according to a straightforward, syllogistic logic, they nevertheless conflict. To what then might we turn as a way out of this dilemma? There can be no appeal to Reason as a mighty standard capable of illuminating the right and just path, for both sides are, in their ways, reasonable. Reason seems to be neither univocal, nor substantive, rather it is deductive and instrumental, and so not so helpful here where both arguments are deductively sound. Though one might be put off by the Furies (for their appearance, their venomous language, etc.), one cannot easily deny that matricide is a terrible act and that their rage has some rational basis. On the other hand, terrible as a matricide may be, in this context it preserves a public good: it restores order to a polluted *oikos* and a headless *polis*, unsettled due to the murder of its father and victorious king. So, while we can judge Apollo as misogynistic, and the Furies as repulsive, we cannot so easily assert that either one is lacking in recognizably plausible arguments, and thus we cannot condemn either action from, as it were, the ground up. The two sides are thus ossified in impasse, and violence lurks just beyond it.

## 5. Finding Overlap, Escaping Impasse

How then can we escape this impasse and find a justice that steps outside of this tragic paradigm? What alternative to blaming, exclusion and violence might we pursue? The *Eumenides* suggests that rather than turning away and disengaging from our 'evil' enemies, we must first turn toward them, listen to them, and seek to understand them.

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<sup>31</sup> 153-5 Lattimore (with my own minor changes).

<sup>32</sup> S. Goldhill, *Language, Sexuality, Narrative: The Oresteia* (Cambridge: Cambridge University Press, 1985, p.137). It is also an act which Apollo in fact encouraged, and some argue, compelled, Orestes to do, *LB* 269ff. The Greek word describing Apollo's guidance for Orestes is *keleuō* which has a range of meanings, from urge to order to command. Obviously, the way one understands it here has profound impact on the responsibility of Orestes. While my argument is strengthened by taking it to mean 'urge', making the decision Orestes' own, the fact that at line 296 he asks *whether* he should trust Apollo's oracle indicates again that he does have some choice in the matter.

<sup>33</sup> One should note here that there is throughout the trilogy an ongoing conflation and co-mingling of public and private motives and actions: Agamemnon kills his daughter (a private, 'familial' act) to ensure success in war (a public/political endeavor). In killing Agamemnon, Clytemnestra murders her husband, but she also kills the great general and king of Argos. And then there is Orestes who, in killing Clytemnestra, slays both his mother and the killer of the king. These shifting perspectives point back to my earlier point about the difficulty of classifying and judging actions which are inevitably embedded in different spheres simultaneously.

Let us do this now with the conflict we have just explored. We seem to be at an impasse: two reasonable and opposing arguments and no resolution in sight. But are the differences between the two sides in fact so entrenched, is the wall between them really so impenetrable? We have already seen overlap in some negative respects: both sides advocate the use force and violence, and both aim to rid themselves of those they judge to be wrong and evil. At the same time, both are imprisoned by the rigid formality of their arguments, caught (like the recurring metaphor that runs through the entire trilogy) in fixed assumptions and inflexible interpretations of just who they and their enemies are.

But if we push a bit further, leaving behind the tidy world of abstract principle, of general claims of the sort ‘Matricide/regicide is wrong’, and analyze the underlying details, that is, the context of the individual actions taken, and a fuller picture of the characters involved, what do we find? Upon closer inspection, the neat split that resulted in impasse is blurred -- there are in fact a range of features (in addition to the more negative ones mentioned above) common to Apollo, Orestes and the Furies. For instance, if we return to Apollo’s temple at Delphi in the opening lines of the *Eumenides*, we find that Pythia, the priestess of Apollo himself, opens the play by honoring ‘the first prophet, the Earth’ (2). As the Furies are chthonic goddesses, this direct exaltation of the Earth by Apollo’s own priestess, points to a genuine connection between the two. Though perhaps able to rise to the heights of Mount Olympus, free of the weight of the material world, Apollo is also bound to the earth, to his temple at Delphi, a place dear to the Greeks and crucial to many of their most important decisions. Some of the strength of Apollo, precisely like that of the Furies, lay deep underground. And the fact that Apollo did not have a priest at Delphi but a priestess serves to cross the sharp gender lines that separate Apollo and Orestes from the Furies. Apollo may indeed prioritize the male, but the female aspect persists within him and plays an important role.

One might recall that in addition to being associated with light and clarity, Apollo is also traditionally connected to music, the power of which is also claimed directly by the Furies (albeit not music of joy but rather, *mousan stugeran*, 308). While music for the Greeks had direct associations with mathematics, with the motion of the heavenly spheres, and their poetry (which was often accompanied by music and so more like song than we might think), it could also contribute to debauchery, and in the worst cases, violent Bacchic frenzy.<sup>34</sup> The multi-faceted nature of music itself, the sense in which it embraces these opposites, mirrors a similar complexity in terms of character in the play, and works to erode further stark binary thinking.<sup>35</sup> This link to music, and more generally to a mode of expression that lies outside strict reason, emerges subtly earlier in the play when Apollo instructs Orestes to go to Athens. There Orestes is told he should ‘take in his arms/embrace the ancient (*palaion*) idol of Athena’. Here we have Apollo referring to what it ancient (*palaion*) with respect and reverence, whereas the old age of the Furies only made them despicable and irrelevant. Apollo’s purity and rationality become somewhat diffused

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<sup>34</sup> For an extended discussion of the use of musical terms in Greek drama, see M. Tomasello, ‘L’inno delle Erinni e il Lamento di Cassandra: Canti *Performativi* nell’*Oresteia* di Eschilo’ (*Quaderni Urbinati di Cultura Classica*, New Series, Vol. 101, No. 2, 2012, pp. 63-90). Tomasello notes that the Furies’ lament at 975-995 while not explicitly musical ‘si leva già simile ad un inno’, thus connecting them to harmony and order, and so indirectly to Apollo (pp.69-70).

<sup>35</sup> For the pervasiveness of this kind of thinking in early Greek thought, again, G.E.R. Lloyd, *Polarity and Analogy: Two types of argument in early Greek thought* (Bristol: Bristol Classical Press, 1966, repr. Cambridge: Hackett, 1992).

when he tells Orestes that in Athens, he will find judges (*dikastas*) and charming stories (*thelketerious muthous*, 79-83). The juxtaposition of the judge with *muthos*, as opposed to, for instance, *logos*, is noteworthy, and implies an acknowledgement of different modes of reflection and understanding that might come into play when making judgements. And are not Pythia's oracles themselves a kind of riddle? Neither direct nor logical statements, but more like poetic aphorisms, demanding interpretation, deciphering, and decoding — hardly the stuff of Reason, pure and clear. Had these commonalities, lying just beneath the surface of the seemingly irreconcilable perspectives, been recognized, the possibility of real discussion and compromise might well have come sooner. Instead, the two sides choose to entrench their antagonisms and ignore the possibility of playing with the plasticity of their characters.

## 6. Identity: flexibility and expansion

This flexibility and mutability of character has important repercussions for political impasse today. If we look at any one of the conflicts now raging in the world, whether it be a small, domestic one between various opposing interest groups/parties, or an ongoing, and seemingly intractable international conflict, we see that at their core, they turn on the confrontation between defensive and rigidly defined groups — what Nancy Fraser calls the 'the problem of reification'.<sup>36</sup> Each asserts its identity, and some right it is due because of that identity (a claim to contested land, or the authority to enact or nullify a particular law, etc.). Each continues to derive a (false) sense of strength in digging the stakes deeper, while in fact creating a paralysis on both sides. Building on what we've just seen in the *Eumenides*, I want to turn briefly to two contemporary theorists, Akeel Bilgrami and Amartya Sen, whose work on identity helps point to a way out of this trap.

Bilgrami argues persuasively that a community's identity is neither 'primitive' nor rigidly fixed. Instead, he sees identity as largely 'historically and functionally determined' and thus, 'negotiable':

It is only if one saw communal identity as a highly codifiable phenomenon, as a list or code of necessary and sufficient principles, that one would even be tempted to say that a relaxation or abandonment of some set of principles would have the effect of changing the subject.<sup>37</sup>

For Bilgrami, identity is embodied in the holding of certain commitments and values at particular times. It is non-codifiable insofar as there is no prescribed list or set of commitments and values corresponding to any given identity which exists outside of an historical and cultural context. Individuals and groups have the capacity to change even their deeply held commitments should they cease to fit together harmoniously in their current circumstances. For instance, given today's political and cultural context, Bilgrami suggests

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<sup>36</sup> 'Rethinking Recognition', *The New Left Review*, 3, May-June 2000.

<sup>37</sup> 'What is a Muslim', in *Secularism, Identity and Enchantment* (Cambridge: Harvard University Press, 2014, pp.217-41).

that absolutist Muslims might start to focus on verses in the Quran which are more ‘universal’ and less pointedly political and legal (however necessary the latter may have been in those early years when Islam was struggling with legitimacy and growth):

...since that historical context of seeking conversion has lapsed, the verses to be emphasized now are the Mecca verses which have no specific political commitments and so are less prone to cultivate defensiveness and cause conflict.<sup>38</sup>

In a similar vein, in *Identity and Violence*, Sen argues that our identities are ‘robustly plural’ and that this richness allows us to, and in fact, *demand*s that we, ‘make choices, explicitly or by implication about what relative importance to attach, in a particular context to the divergent loyalties and priorities that may compete for precedence’.<sup>39</sup> In still another work, while discussing democracy’s role in (at least) allowing for, and (at most) actively promoting tolerance, Sen argues that we should recognize our:

...multiple identities...Hindus, Muslims, Sikhs and Christians in India not only share a nationality but, depending on the individual, can share other identities, such as a language, a literature, a profession, a location.<sup>40</sup>

Identity, for Sen, is multiple. That is to say, there is within every identity a range of attributes, commitments and associations which can be given more or less weight depending on context (a single individual may emphasize that he is a father at a PTA meeting, a painter on the job, a husband on his wedding anniversary, a Swedish citizen at the customs counter at the airport, etc.). There may be times then when a particular aspect of one’s identity may be deliberately brought into high-relief, only later to recede into the background given a different context, when yet another aspect will be brought forward to guide thought, choice and action.<sup>41</sup> Once we have recognized and taken to heart the notion that we have many identities embedded within us, it is simply a matter of choice which one we prioritize and when: ‘...the person has to decide’, Sen says, ‘on the relative importance to attach to the respective identities, which will, again, depend on the exact

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<sup>38</sup> Ibid. Bilgrami’s analysis makes clear that the notion of universality does not imply becoming somehow generic, diffusing Muslim identity so that it is indistinguishable from other religions and systems of belief. Rather it is a recognition that the Muslim faith has a range of essential characteristics, and a range of core commitments and thus, given any given context, there is a choice to be made about which ones to emphasize, while still preserving those qualities that make Islam unique. This is precisely my point here about reorientation: that is, to reorient one’s identity does not entail denying a vital part of oneself, it is to recognize the fact of a kind of internal pluralism and with that, of choice.

<sup>39</sup> *Identity and Violence: The Illusion of Destiny* (New York: Norton, 2007, p. 19).

<sup>40</sup> *The Idea of Justice* (Cambridge: Harvard University Press, 2009, p. 352).

<sup>41</sup> This idea of choice extends to Greek playwrights in a slightly different way: Greek tragedies tend to draw on well-known myths to dramatize the particular points the individual playwright seeks to make, the issues underlying the play will determine what aspect of a single myth the playwright will emphasize (Mittica, *Raccontando il possibile*, Milano: Giuffrè, 2006, pp.84ff.). Individual identities, like stories, can be variously interpreted according to need and context. See also G. Avezzi *Il mito sulla scena: La Tragedia ad Atene* (Venezia: Marsilio, 2003).

context'.<sup>42</sup> That said, Sen is clear that we are not empty vessels in a void, able to pick out 'from nowhere' any identity at all that suits us. As humans, we are inescapably 'encumbered' and 'situated' (by our cultures and our communities, our natural abilities and resources), thus there are always constraints on our choices.<sup>43</sup> Nor is it necessarily easy to choose to emphasize an aspect of ourselves that has previously been dormant. But ultimately, the crucial point about identity for Sen is not its very real hold on us (established over time, through use/function and habituation, as it is for Bilgrami), but its varied nature, and our capacity to seize on this multiplicity and use it in order to better get along with others.

The views of Bilgrami and those of Sen, though *prima facie* similar, have some key differences. For Bilgrami identity is neither innate nor fixed, rather it is the collection of historically determined commitments and values we hold at a particular time. Given the vicissitudes of history, one's most cherished commitments and values may well be disrupted by new contexts. The dissonance caused by such a clash tends to trigger a critical reflection upon one's commitments. Should a 'fallacy' be unearthed among them, a gradual, 'ground-up' shift in identity will likely occur (that is, through adjustments in one's daily lives and routine practices, where commitments are expressed and sustained).<sup>44</sup> If this clash and subsequent reflection causes a change in commitments and values, this constitutes a change of identity. However, the fact that identity can and does change does not undermine the power of our commitments and values at any given time. They are held tightly, they are felt to be defining of who we are, they are a guide to our reasoning and actions — towards either good or bad ends.<sup>45</sup> So identity is both an extremely serious force that structures and gives sense to who we are, and at the same time, given a sufficiently uncomfortable state of dissonance in various aspects of our identities, it is malleable.<sup>46</sup> For Sen, on the other hand, identity is inherently multifaceted. Given this, it can and should change in response to context, through a relatively simple and direct act of

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<sup>42</sup> See *Identity and Violence*, p. 19. Sen does not in this claim ignore the possibility of contrasting commitments within one identity, and stresses that to prioritize one does not entail denying another. Instead he suggests that through 'reasoning and scrutiny' one has to make a choice in the context within which one finds oneself (*ibid.*, p. 29).

<sup>43</sup> And these are especially strong when they are choices that we want/need to persuade others to accept about us, Sen gives the examples of a Jewish person in Nazi Germany, or/and African American in the presence of a lynch mob (*Identity and Violence*, p. 31).

<sup>44</sup> Though for Bilgrami too this shift does seem to be the product of a choice: 'If a full analysis of the commitment reveals its defensive function which have disabled Muslims from a creative and powerful opposition to the absolutists, and if, moreover, this function of the commitment is diagnosed as itself based on a deep but common philosophical fallacy, it should be possible then for Muslims to think there way out of this conflict and to transform the nature of their commitment to Islam, so that it is not disabling in that way' (Bilgrami, 'What is a Muslim', *Secularism, Identity and Enchantment* (Cambridge: Harvard University Press, 2014, pp. 217-41).

<sup>45</sup> Bilgrami is keen to highlight the fact that this strong, continuous sense of identity through time can be the source of great good -- people have, on the basis of a sense of shared identity, come together to enact positive change (civil rights, women's rights, economic rights, etc.). Thus, those who rail against the extremes within identity politics, need not jettison the whole idea of identity as a serious and potentially positive influence on action and change.

<sup>46</sup> Note however that a clash is itself the product of chance, i.e., history may not generate one thus some identities endure. I want to look at how to remove these triggers from the realm of chance.



individual will. It does not require the same significant clash and gradual change through practice and over time. Rather, identity is a matter of choice from one situation to the next.

One key to overcoming the kind of paralyzing impasse we find in the *Eumenides*, and in political life more generally, thus comes in thinking more analytically and systematically about identity. With Sen we might acknowledge that identity is multiple, that there is some wiggle room to make choices about which aspects of ourselves we wish would emphasize in any given context. We are not fully determined by our cultures and the communities, and so ‘the ability to doubt and to question [our inherited commitments, values, etc.] is not beyond our reach’.<sup>47</sup> With Bilgrami, we might stress the power inherent in identity at any given time, and recognize that while identity may in some *de jure* sense be multiple, our capacity to ‘acquire [an] alternative perspective (of autonomy)’<sup>48</sup> is not simple, but depends on some trigger, an internally acknowledged clash.

In what follows then, I will use these ideas to ground my conviction that identity can undergo a reorientation, and I will explore the sorts of triggers that might be used to bring this kind of reorientation about. That is, I will try to clarify just how a group might be motivated to change, especially in times of intense fear and anger when defensiveness obscures the possibility of choice and changing itself gets miscast as weakness. Part of this comes through an explicit recognition of current commitments and an illumination of concrete alternatives -- and the reassurance that reorientation is not surrender. All this takes us back to the *Eumenides*, and specifically to Athena in her role as (an active) judge.

## 7. A New Role for Judges

It is but law that when the red drops have been spilled  
upon the ground they cry aloud for fresh  
blood. For the death act calls out on fury  
to bring out of those who were slain before  
new ruin on ruin accomplished.<sup>49</sup>

The things that are perish into the things out of which they come to be, according  
to necessity, for they pay penalty and retribution to each other for their injustice  
in accordance with the ordering of time.<sup>50</sup>

Justice, traditionally defined, calls for balance. As we have seen, this balance is sought over and over in the *Oresteia* yet yields no resulting state of harmonious equilibrium. Instead, driven by feelings of righteous entitlement, opposing sides sink ever deeper into rage. The pursuit of revenge serves only to perpetuate a painful and violent cycle that has no end. Whatever immediate satisfaction vengeance brings, ultimately it provides no one

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<sup>47</sup> Bilgrami, ‘What is a Muslim’, *Secularism, Identity and Enchantment* (Cambridge: Harvard University Press, 2014, pp. 217-41).

<sup>48</sup> Ibid.

<sup>49</sup> *Libation Bearers*, 400.

<sup>50</sup> Anaximander (Simplicius, *Commentary on Aristotle's Physics* 24.13 -21 = 12B1 + A9).

with a sense of calm and tranquility and diverts attention away from other problems.<sup>51</sup> Still there persists a certain seductive logic to this way of understanding justice, and in moments of fear and vulnerability, it tends to dominate. I do not suggest that we must abandon completely the idea of balance within our conception of justice, only that we would do well to think more critically about how such a principle might be construed and applied differently, so as to help to achieve a more lasting state of well-being and peace.

While justice may indeed come in balance, it is more complex than a fixed end-state. Justice also resides in the dynamic process by which we seek to establish it. The search for justice cannot begin with a dogmatic assertion of one's principles followed by a judgement of others according to them, but rather with curiosity and openness. This is not an easy stance to assume towards one's enemies (and perhaps harder still at the global, political level where stakes are often higher, and face-to-face interaction more difficult to find). Yet still, given genuine attention to those whom we judge as vile (corrupt, dishonorable, etc.) we can discover an extraordinary potential for overlap. Contrasting Athena's response to the Furies with both Apollo's and Orestes' makes this point. Recall how immediately judgmental both Apollo and Orestes were when encountering these shapeless, haunting goddesses, and how the Furies, in all their oozing rage, made communication impossible. Athena offers us quite a different approach.

### 7a) Athena: imperfect but active judgement

Athena is initially called upon by Orestes for help (287), but is readily accepted by the Furies as a judge in their dispute (434).<sup>52</sup> She appears on the stage dressed in full armor, the costume of war, fresh, she says, from receiving war booty from Achaean 'lords of war' (399) — a far cry from traditional women's work in the home. Aeschylus' inclusion of her recent war-related activities makes her sympathetic reaction to the Furies more vivid.<sup>53</sup>

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<sup>51</sup> One might note similar patterns today, for instance the way that money spent in effort to eliminate groups/nations/individuals deemed 'evil' is not only largely ineffective, but also prevents valuable resources from going to very real problems like famine relief, healthcare, and education.

<sup>52</sup> H.J. Wolff analyses the development of Greek litigation. He traces the decline of 'self-help' (violent and private retribution) to the emergence of a third-party arbitrator, from its representation in Homer's description of the Shield of Achilles, to Athena in the *Eumenides* (though his study extends far beyond these two examples). However, 'imperfect' such examples might be, both Homer and Aeschylus told of concrete ways in which arbitration helped to avoid the kind of 'wild feud' which threatened the well-being and stability of the whole community. Because nothing is 'borrowed' from Homer by Aeschylus, Wolff suggests that this movement accurately reflects Greek life at the time ('The origin of Litigation Among the Greeks', *Traditio*, vol. 4, 1946, pp. 31-87). Daniela Fruscione writes of a similar process during the early Middle Ages in Anglo-Saxon legislation and the beginnings of punishment. However, her claim is that at this time, the move to 'vertical punishment' (punishment from an external and elevated third-party) was not the result of a desire for justice, but a way of consolidating power for an established elite ('Beginnings and Legitimation of Punishment in Early Anglo-Saxon Legislation From the Seventh to the Ninth Century', in *Capital and Corporal Punishment in Anglo-Saxon England*, Eds. Gates and Marafioti, NED - New edition ed., Suffolk: Boydell and Brewer, 2014, pp. 34-47).

<sup>53</sup> One might consider this goddess, not only within the *Eumenides*, but more broadly, taking into account some of her qualities and history. There is a sense in which Athena blurs lines which traditionally demarcate identity, thus representing just the kind of richness and overlap I highlight above. For instance, though undeniably female, she was not, as Apollo pointedly reminds the Furies, born from a woman (665). Rather, she sprang spontaneously from the head of Zeus himself (736-40). Her remarkable strength is evident, for

She projects power and authority, but unlike the lords of war whose presence she recently left, she is neither violent nor aggressive. Upon seeing the Furies, she expresses none of Orestes' fear nor Apollo's repulsion, but wonder. 'Who are you?'(407) she asks trying to get a clear sense of just whom she has come to help. She makes it known immediately that she will treat each party equally, and is explicit that she will not be swayed by hearsay:

I address you all alike...  
This is the place of the just. Its rights forbid  
even the innocent to speak evil of his mates (408-13).

Athena steps into her role as judge projecting a sense of transparency and fairness. She cannot decide who is right given a hasty assessment of the arguments. Only after hearing a 'clear account' (*emphanē logon*) will she gain 'understanding' (*mathei*). One might contrast this with the Chorus' claim in the *Agamemnon* that understanding comes through suffering (*pathei mathos*, 179, *pathousin mathein*, 250). Athena goes on to demand the whole story, sound judgement, she asserts, cannot be made with only half the argument (427).<sup>54</sup> Yet even after having made the space to hear both sides, there are no easy answers — and Athena readily admits to where her own powers of discernment fall short:

The matter is too big for any mortal man  
who thinks he can judge it. Even I have not the right  
to analyze cases of murder where wrath's edge  
is sharp (470-3).

In asking for the help of citizens, Athena endorses a kind of democratic decision-making (the extent to which her deciding vote in the trial undermines that will be discussed below).<sup>55</sup> Additionally, she models a way of behaving that reveals how strength persists even

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instance, in her association with military victory, and with the fact that she valiantly helped Hercules in his labors. But strength alone does not capture the breadth of her character: she is also known as the goddess of wisdom, as the patron goddess of the city of Athens, and to have compassionately helped the women of Elis conceive children and repopulate their land (Paus 5.3.2). This depth of character puts Athena in a particularly good position to understand more than a single perspective in the case between Orestes and the Furies. She exemplifies overlap, and in this, the truth that sharp lines rarely, if ever exist. Her identification with both sides allows her to achieve an impartiality that is engaged rather than removed or transcendent (P. Euben, *Corrupting the Youth*, Princeton: Princeton University Press, 1997, p. 37).

<sup>54</sup> Stuart Hampshire's Tanner Lecture (1996), 'Justice is Conflict' identifies the legal principle of *audi alteram partem*, and highlights the fact that justice and fairness, especially in a world of value pluralism, depends on it -- there is a direct parallel with Athena's actions here.

<sup>55</sup> The importance of the *demos*, the need to take into account its views, is a thread that runs through the trilogy, as noted by Dodds (*The Concept of Progress and Other Essays on Greek Literature and Belief*, London: Oxford University Press, p. 46). Still it is difficult to judge with any certainty just how Aeschylus' depiction of the court in the *Eumenides* might reflect his own opinion of courts in the Athens of his time: Ephialtes had recently shifted power from the lofty Areopagus to the People's Court (*dikasteria*). Perhaps the tied vote we find here is meant as a criticism of this change, a derogation of the *demos*, and the need to bring in a voice that is somehow higher than that of the common people. I would suggest that Athena's own recognition of her limitations does something to undermine the claim that Aeschylus is a myopic and conservative elitist.

in calling on others for aid.<sup>56</sup> She exemplifies and embodies a rare balance of authority and modesty.

I wish to argue here that Athena's most striking skill, her real innovation, comes not in the establishment of a court, nor in the trial itself, but in the discussion that follows it, where she engages actively with the Furies, the 'losing' side. Note that this final scene in which Athena speaks to the Furies is no mere coda, tacked on at the end, but makes up a good third of the play. The fate of the Furies might well have been entirely negative: they could have been banished after Orestes' acquittal, only to return to wreak havoc on the city and its people. And indeed, having been ruled against, the Furies, feeling shamed and dismissed, angrily and repeatedly assert their plans for savage revenge, highlighting again the ways in which the two sides are inescapably at odds:<sup>57</sup>

Gods of the younger generation, you have ridden down  
the laws of the elder time, torn them out of my hands  
I, disinherited, suffering, heavy with anger  
shall let loose on the land  
the vindictive poison  
dripping deadly out of my heart upon the ground (778-84).

Their wrath finds its source in their humiliation, their acute sense of having been dishonored:

I am mocked by these people (*politais*)<sup>58</sup>  
I have borne what can not  
be borne. Great the sorrows and the dishonor upon  
the sad daughters of the night (789-91).

The Furies feel excluded, their passionate rage until this point has had no effect, their concerns, have not been registered nor publicly valued in any way. Their sense of being

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<sup>56</sup> Bilgrami distinguishes moral examples from moral principles in his paper, 'Gandhi, the Philosopher': setting an example of what one understands to be good behavior tends to breed far less violence than first laying down one's principles and judging others according to them. (<https://philosophy.columbia.edu/files/philosophy/content/BilgramiGandhi.pdf>).

<sup>57</sup> Note that Athena seems to place the final say with Zeus, who said that Orestes should not suffer for what he had done (*all' ek Dios gar lampa marturia parên*, 797). Here I depart from Lattimore's translation which has it that Zeus 'ordered' Orestes to act (799). I cannot find evidence of such an order in the Greek, only that Zeus said that Orestes should not be harmed for his actions (*dronta me blabas echein*). Lattimore's reading absolves Orestes of responsibility, and with Dodds, I believe that Aeschylus aimed to make the fact of human choice and the responsibility that follows from choice a central theme of the trilogy. Dodds distinguishes Orestes' choice from earlier choices taken by of Agamemnon, Cassandra or Clytemnestra: Orestes is the only one whose action acts as a 'limiting case' effectively breaking the 'logic of the vendetta', for his matricide is both a duty and a crime. The choice of the Furies which concludes the play acts as the true 'liberating moment' as they make a choice for good (E.R. Dodds, *The Concept of Progress and Other Essays on Greek Literature and Belief*, Oxford: Clarendon Press, 1973, p.59).

<sup>58</sup> Though translated by Lattimore and Smyth as 'people', *politais* is also the Greek word for 'citizens' and highlights the fact that the Furies feel in no sense part of the city.

left out, ignored, and silenced generates a desire to lash out and punish those all who refuse to acknowledge the worth of their beliefs.<sup>59</sup>

Despite her judgement in favor of Orestes, Athena seems to understand this. Her actions after the play make it clear that she realizes that while her work as judge obviously includes gathering arguments and pronouncing judgement, it extends beyond this formal process. After the trial, and, importantly, after casting the deciding vote against them, she works patiently and painstakingly to cultivate and renew the Furies' sense of dignity and worth, which had been so thoroughly eroded. She reminds the Furies of their distinguished place in Greek religion, recognizing explicitly that they are goddesses, and celebrating the fact that they are older and, in that respect, 'wiser' (*sophōtera*, 849). 'I'll not tire of telling you of your gifts' (882) she says in response to their continued rage and venom. In the prolonged post-trial exchange, Athena gradually *legitimizes* the Furies. She not only acknowledges their past and heritage but takes the time to show them how they can become active members of the city in the future. 'You'll have your place', she assures them, promising that they too can share in the land (*metaschein*, 868).<sup>60</sup>

Importantly, however, their new place is not in the sky with the Olympian gods — their thrones, though 'shining' (*liparothronoisin*), will be below the ground. But I suggest that this is not negative, as some scholars have argued.<sup>61</sup> One must remember that the Furies *are* different from the newer pantheon of Olympian gods. Athena's aim is not to transform the richly pluralistic world into a flat and homogeneous one. The Furies, as chthonic goddesses, and have skills and needs that are distinctive to them, and which have their proper role and function. From their new place deep in the earth, they will have power to radiate good outward, from the center. Theirs will be a distinguished position, for to be under the city is to be foundational to it, essential to its structure and stability.

Equally crucially, Athena does not force the Furies to do anything. Rather than perpetuate the futile cycle of violence that has propelled action a plot until this point, she does not resort immediately to retributive punishment — and, as she knows where Zeus' thunderbolts are locked, this option was well within her power (827). But after alluding to her access to force and violence, Athena chooses a different path: she first

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<sup>59</sup> And again, the Furies' words are not so distant from some political rhetoric we hear today from groups who are consistently demonized and degraded by those in power: 'The blood pouring out of Palestine must be equally revenged. You must know that the Palestinians do not cry alone; their women are not widowed alone; their sons are not orphaned alone', Bin Laden's 'Letter to America'.

<sup>60</sup> C. Gill highlights the importance of this kind of active role. For Gill it was *participation* in a community and its 'shared forms of life and discourse' which seems to have been key to identity in early Greek thought. Ultimately, Gill argues that it was only through participation that one could come to find and ideally be ruled by reason (*Personality in Epic, Tragedy and Philosophy: The Self in Dialogue*, London: Oxford University Press, 1996)

<sup>61</sup> See for example, A. Saxonhouse 'Foundings vs Constitutions' in *The Cambridge Companion to Greek Political Thought* ed. Salkever (Cambridge: Cambridge University Press, 2009, pp.42-65). There is quite a body of scholarship on feminist readings of the *Oresteia*, arguing that the final play, far from creating a new inclusive space, in fact silences and represses women, see for instance, F. Zeitlin, 'The Dynamics of Misogyny: Myth and Mythmaking in the *Oresteia*', in *Women in the Ancient World: The Arethusa Papers*, eds Peradotto & Sullivan, Albany: State University of NY Press, 1984, pp. 159-195). Zeitlin claims that the *Enmenides* marks the establishment of a stark hierarchy that privileges the Olympian over the chthonic, Greek over barbarian, and male over female. My reading departs from this dichotomizing one and takes this play as the portrayal of a harmonizing of previously antagonistic forces.

presents the Furies with a an expanded yet realistic and positive picture of their current identity, and then she carefully enlarges the way in which they might see themselves.<sup>62</sup> Then, given this broader picture, she offers them a choice: *elesthai soi parestin*, (867) and *exesti gar soi*, (890). They can let up on the destructive, vengeful aspects of themselves (which may have been useful in the past but serve no good purpose in their present context), and instead reorient their identities by cultivating and accentuating other parts of their character. without the fear that their identity was in any sense being 'deracinated'. Should they choose to, they can take up very real and constructive political functions: they can be the source of well-being for all Athenian households (895), they can nourish the soil (904), and fatten flocks (944), they can protect and guard the city (949).

In giving the Furies a concrete choice (rather than abandoning them after the trial, or merely offering an abstract possibility of one), Athena provides necessary support and guidance, and finally highlights their autonomy. The awareness that they can make a choice helps to empower the Furies to undertake the hard work required to undergo a reorientation of their sense of who they are and whence their strength comes. Should they *choose* to let go of their anger, if the Furies expand their sense of who they are and release the rage they carry, they can be an active and engaged part of a new and different space, the evolving Athenian *polis*. Having this definitive choice placed explicitly before them (viz., to help by fattening flocks, etc.) made the opportunity to change very real and accessible — still in her role as judge, Athena showed them, directly and concretely, the manner in which they too might work to bring about the well-being of Athens. This helped to engage the Furies and made them participants in a new political endeavor insofar as they too could contribute and belong to the community of Athens. I would expand this idea and argue that, given a choice, *itself made explicit by a judge*, to become an active participant in a new political space, and utilizing an aspect of oneself that had previously been dormant or underused/valued, parties to conflict might be better able to let go of 'old' identities which inhibit growth, and limit the possibility for prosperity, peace and justice.

As a judge then, Athena is active. Yet her most crucial activity as a judge does not come in the formal trial itself (where her judgement was, in part at least, motivated and influenced by 'the luminous evidence of Zeus' (796), that is from a partial perspective. That said, she did attempt to broaden the foundation of the decision by calling on the Athenian people (the jury). This is significant for it demonstrates her belief that the basis for such an important decision must be extended beyond solely her own opinion, or even of the loftiest of the Olympian gods. But the evenly divided jury reveals to the audience just how difficult a case it was — the impasse was entrenched, and democratic decision-making revealed its own limitations. The way out of the court's impasse comes through Athena's intervention. If we examine Athena's own vote, we see that it has clearly articulated reasons behind it, and however much one might disagree with those reasons, however much one might see them as personally biased ('I am always for the male with all my heart' 738), they are transparent, and more, they are what moves the trial forward. While

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<sup>62</sup> In this, I oppose the idea that Athena does in fact threaten the Furies, and that her potential to use force rendered the persuasion that followed superfluous. While I see this point (and am grateful for having this alternate reading pointed out to me), I think that the long back-and-forth that follows the mention of her power indicates that Athena's point in speaking of Zeus' thunderbolts was intended far more to illuminate the fact that she was deliberately choosing *not* to act violently.

this is a blatant example of individual preference guiding judgement, it does not necessarily render the trial unjust. Rather it brings into high relief the very real problem of finding a just decision when confronted with an impasse. A genuine impasse allows for only imperfect resolution: someone who has a sound and reasonable argument *must nevertheless be judged against*. That is to say, any judge, no matter how impartial and just, will, in the hardest cases, be forced ultimately to fall on one side or the other — and this will be for some non-objective reason (again, an objective reason would dissolve the impasse). This is not to say that there cannot be better or worse decisions, nor is it to allow for judges to decide on personal whim. My aim is rather to recognize true impasse and to suggest that given one, a just end cannot come at the end of the trial. *There is another necessary step*. Thus, though Athena's reasoning here may seem to us offensively subjective and overtly sexist, its brazen partiality dramatically highlights the fact that her decision, because it is so clearly partial, cannot constitute definitive closure, the final and just end to the matter.<sup>63</sup>

Thus our attention must be drawn not only to the judicial decision itself, but much more, to what is (and can be) done afterwards to the side that has been ruled against.<sup>64</sup> Athena's most remarkable 'activity' therefore comes after the trial, after a formal judgement has been made, when she aims to legitimate both parties and create a new space in which all actors can participate. The Athena-ian judge shows the losing party that it is more than what the formal judgement proclaims, and more than its own entrenched view of itself allows. So the work of the judge is not merely to declare winners and losers, nor is it simply to assert the empty fact that we have some (though not unlimited) choice about our identities. The task of the judge is bigger still. After engaging with and paying close attention to the parties involved during the trial (which starts the process of empowering and liberating), the judge illuminates the commonalities that anger and blame have obscured, and offers the losing party something substantive with which to work, on which to act.

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<sup>63</sup> Similarly, as S. Goldhill argues (in line with theorists such as Barnes, Foucault, Derrida) there can be no 'innocent reading' of the *Oresteia* (or of any text, for that matter). Full impartiality is simply not available to human beings (*Language, Sexuality, Narrative*, Cambridge: Cambridge University Press, p. 5). Likewise, I would argue, there can be no 'innocent decision-making' in a trial. While a judge can be more or less biased, she is always reasoning through her own filter -- as is represented explicitly in the reasoning of Athena. Her preferences are undoubtedly extreme, but this only reveals the inescapability of our subjectivity, which is often obscured. This partiality must be accepted as fact and then managed, in part by formal bodies like juries, but also, as I argue here through what follows the formal trial and decision laid down.

<sup>64</sup> One might ask why Apollo and Orestes should be let off the hook after the trial, why the Furies are the only ones who need undergo the difficult process of identity reorientation I describe. My answer is simple: Furies lost in court. Their efforts after the trial are a kind of alternative form of punishment, and a way of respecting the outcome and value of the court (if both parties were compelled to undergo the same process afterwards one might ask what the trial was for in the first place). So, it is they, those who were formally defeated, who must do the lion's share of changing. That said, I would argue that a change in one part of a community will necessarily bring about a change in the others (albeit likely more indirect and gradual) and so while Apollo and Orestes do not need to take part in the final conversation between Athena (judge) and Furies (losing party to the case), they will nevertheless be compelled to change by virtue of the fact that web of their society as a whole has changed.

## 8. Concluding Remarks

I have aimed to show that in the *Eumenides*, the Furies could be neither avoided nor destroyed: no matter how evil, terrible or disgusting they seemed, their rage and need for recognition were real. Such hostile forces, at one time or another, will infect every political community, domestic or international, and they must be met face on, with openness and generosity.<sup>65</sup> No just and peaceful community can simply deny its 'fury', as it will always return to breed strife and impasse until it is heard and 'honored'.<sup>66</sup> Overcoming impasse in today's radically pluralistic sphere of global politics, is not a matter of finding a final and definitive Truth that renders impasse illusory by identifying and excluding evil. Nor, importantly, does it come in embracing a naïve and toothless relativism. Rather it comes in carefully and deliberately constructing a space in which all (conflicting) parties can choose to take part in a range of processes and institutions necessary for living full human lives. Justice demands that everyone — individual, group, nation — be given the choice to adapt and transform in a way that promotes peace. This entails finding flexibility and overlap in identities that might at first glance seem ossified, disconnected, and antagonistic.

But the acknowledgment of the kind of malleability that allows identity to expand can rarely be acknowledged by opposing parties in a struggle. Each desire (and requires) validation, but neither is able to give to the other what it needs without somehow triggering the sense that in doing so, its own identity is under threat. Unearthing commonality, and the choice to reorient identity based on this overlap, is difficult and requires another actor. Here is where the Athena-ian judge has something profound to teach us: standing above and yet fully immersed in whatever the present impasse may be, she shifts the focal point of the conflict so that it is not through the act of judgement alone that the judge effects real change. Through attention to particularity and the illumination of qualities, long hidden or ignored, she shows that there is always a choice in what aspects of our identities to emphasize. By offering up substantive choices, the judge empowers and confers dignity to the party who has lost the formal trial. The choice offered by the judge serves to re-establish a kind of equality between sides that is often obscured after the decision is laid down with definitive labels like 'winner' and 'loser'. It emphasizes the fact that the process of politics is ongoing, and that conflict is a catalyst for its motion. With the awareness that both 'winners' and 'losers' can participate in a meaningful way after judgement, comes the potential for productive interaction between previously hostile groups.<sup>67</sup>

If probed and illuminated, the breadth of qualities and range of commitments we have — as individuals, groups, as nations and states — can show us that in the midst of

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<sup>65</sup> See M. Nussbaum, *From Disgust to Humanity* (London: Oxford University Press, 2010), where she highlights the two 'opponents' of disgust, respect and sympathy — both of which I would argue are central to the kind of reorientation I advocate here.

<sup>66</sup> The need to honor even those emotions we feel most repelled by and scared of is discussed by R. Trousdell in, 'Tragedy and Transformation: *The Oresteia* of Aeschylus' (*Jung Journal*, Summer 2008, p. 34).

<sup>67</sup> One might note here similar principles grounding cosmopolitan thought in discussions of global justice: 'To be properly cosmopolitan, this civic culture needs to be as inclusive as possible, that is to embrace not only people similar to 'us' but precisely those who are different or 'other — potentially those who are now categorized (rashly) as 'enemies'.' (F. Dallymar, 'Cosmopolitanism: Moral and Political' *Political Theory*, vol.31/3, p. 438).



dispute, when frozen by impasse, we need not fight quite so tenaciously to defend what is narrowly 'ours'. Instead, because of the richness of our identities, we can recognize that what is 'ours' is in fact broader and deeper than whatever our current conflict admits. With guidance from an active judge, we can choose to act on aspects of our identities that are harmonious in our present context, and which allow us to create a political space in which we, along with our opponents, can be constructive together. This is neither an easy nor a short process, but it is a path that lies open to us should we choose to take it.

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