

Awful but lawful dehumanisation

Conor Gearty praises a powerful exposé of how US law can deprive, exclude and marginalise citizens



The Law is a White Dog: How Legal Rituals Make and Unmake Persons
By Colin Dayan
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Alexis de Tocqueville wrote of the US that its “government...depends almost entirely upon legal fictions; the Union is an ideal nation, which exists so to speak, only in the mind”. This extraordinary, angry, powerful book – at times hilarious but more often frightening – proves the truth of this dictum.

Colin Dayan’s concern is with humans reduced to non-persons by dint of law. Her history of “negative personhood” focuses on “slaves, animals, criminals, and detainees who are disabled by law”. One of the main themes is to show that “the shame that is Guantánamo has a history, in our

nation and in its treatment of its own” and Dayan succeeds mightily in her dismal project. The tale is told via death-row chain gangs, cell-extraction with dogs, rape by “correctional officers”, a rare first-hand report on the horrors of supermax prisons, and much else besides: the entombment of the living that made an end to the death penalty possible – but only because a fate worse than death had been found. (That is how New Mexico’s governor, Bill Richardson, explained his move against judicialised murder.)

The book is defined by three extraordinary strengths. First, its moral force is as direct as that of Charles Dickens, Émile Zola or Henry Mayhew. Its controlled anger reminded me of *No Logo*, Naomi Klein’s great critique of international capitalism.

Second, I have never read a better use made of case law: Dayan knows the importance of

legal decisions but is not bound by them, and is always aware that their hinterland matters much more than their formal prose. I would defy some US Supreme Court judges (Antonin Scalia particularly) to read this with a half-open mind and fail to squirm at his own smug smallness.

Third and best, the book takes the margins and makes them central: the 131 prisoners forced in Guantánamo; the 40 per cent of African-American men disenfranchised in states with the most restrictive voting laws; the indefinite solitary confinement in supermax prisons that is not punishment (which is not allowed) but administrative segregation (which is); the deliberate “futility of pointless [prison] work”; and so on and so on.

There are a few odd features; some magical stuff that can be both wonderfully comic and also off-puttingly odd for a mind trained in the humourless unimaginings of the law. The structure will be a minor challenge for those used to rigorously defined beginnings, middles and ends: more triumphant pot-pourri than organised exegesis. But these features help to make it a triumph of style as well as of substance.

Will the book make any difference? The US has always had access to the truth about those of its roots that draw their nutritional power from horror, mass killings and irrational hatred, but invariably these are seen as sideshows to the “true” story of reason and right. But as Dayan says, although “the language of rights is perilously abstract, the practice of taking them away is very concrete”.

No doubt this volume will be absorbed, admired and forgotten. But it will not be the government that will do this: the great, sad genius of the US is that its citizens choose to do this all by themselves. “Human kind cannot bear very much reality,” as T. S. Eliot said in a poem. Another of his works has a title that fits very well the world described in this book: *The Waste Land*.

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