

Gallows Erected in the Bedroom: A Critical Analysis of Violence in the Case of Capital Punishment

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*To my mother whose arms were the safest haven in the midst
of the war, whose love awakened my eyes to see the invisible,
and whose wisdom taught me to hear the inaudible...*

Abstract

This thesis is an interdisciplinary critique of violence, with particular focus on the case of capital punishment. Although the core elements of the thesis are inferred from a capital case—and the facts thereof—the model suggested in this study provides a theoretical framework to better understand the question of violence. Texts, images, and sounds have been employed as modes of expression in this study. The theoretical assertion is depicted in an animated piece (*Gallows*), which is further expounded in the subsequent text. The theoretical framework puts forth two concepts, namely *hierarchy* and *lack of bond*, as the constituent elements of violence. *Hierarchy* pertains to the structure of power which, as demonstrated in this study, correlates with the use of violence. The origins of *hierarchy* are sought in the earliest stages of mankind's evolution, specifically in the copulatory posture of primal humans. This contention is further elaborated by invoking philosophic, psychoanalytic, and linguistic evidence, as well as the events of *Gallows*. The physical manifestation of *hierarchy* is then explained by suggesting a psychic attribute—an archetype to be more precise—which I have called *governmentality*. The second element of the argumentation, *i.e. lack of bond*, is also a psychic state, which is scrutinized through its physical manifestations. In order to expound on the notion of *bond*, both rational and aesthetic critiques are utilized, thereby making reference to not only academic literature, but also works of art. Finally, the theoretical framework is applied to investigate a recent instance of the death penalty in the 1980s in the Islamic Republic of Iran.

Résumé

La présente thèse porte sur une critique interdisciplinaire de la violence, avec un accent particulier sur le cas de la peine capitale. Même si les arguments principaux de la thèse s'inspirent d'un cas concret d'application de la peine de mort- et des faits de l'affaire-la thèse développée offre un cadre d'analyse théorique du thème de la violence. Des textes, des images graphiques, ainsi que des fichiers sonores constituent les modes d'expression utilisés dans l'étude. L'assertion théorique de la thèse est représentée sous forme d'une séquence animée (*Gallows*), subséquemment transposée dans un texte. Le cadre théorique développe deux concepts, respectivement la *hiérarchie* et *l'absence de lien* comme éléments constitutifs de la violence. La *hiérarchie* est associée à la structure de pouvoir qui, comme la thèse le démontre, présente une corrélation avec l'usage de la violence. Les origines de la hiérarchie sont identifiées dans le cadre des premiers stades d'évolution de l'humanité, précisément dans la posture gestuelle des humains primitifs en copulation. L'argument est ensuite développé à l'aide d'illustrations tirées de la philosophie, de la psycho-analyse, du discours, ainsi que des séquences de *Gallows*. La manifestation physique de la *hiérarchie* est alors interprétée en suggérant un attribut psychique- un archétype pour être précis-que nous appelons *gouvernementalité*. Le second élément de l'argumentation c'est-à-dire *l'absence de lien* consiste aussi en état psychiatrique exprimé à travers des manifestations physiques. Pour développer la notion de *lien*, aussi bien des critiques rationnelles qu'esthétiques sont exploitées, tenant ainsi compte non seulement de la littérature académique mais également des œuvres d'art. Enfin, le cadre théorique est déployé pour analyser un cas récent d'application de la peine de mort en République Islamique d'Iran dans les années 1980.

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Introduction

This thesis consists of two argumentative elements, one appearing in the form of an animated piece and the other articulated through lexical morphemes. In the animation, *Gallows Erected in the Bedroom* (*Gallows* hereafter), I have tried to illustrate the main components of my theoretical assertion. In the textual component, I have expounded on concepts, inferred from my observations of the story depicted in *Gallows*. Through abductive reasoning, I have inferred that the simplest—hence the most likely—explanation for the acts of violence, *e.g.* the murder and the death penalty, in *Gallows* must be predicated upon two concepts, namely *hierarchy* and *lack of bond*. The former, whose roots—as I will demonstrate—lie in the dawn of man, pertains to the question of power and its correlation with the use of violence. Thus, in order to justify my position, I defend my assertion against those thinkers who argue that violence is *apolitical*. In so doing, I have attempted to base my assertion upon not only my observations, but the existing literature in various fields, such as law, philosophy, anthropology, psychology, linguistics, and so forth. After arguing for *hierarchy* [as one of the constituent elements of violence], in order to provide a framework which could adequately explain the events in *Gallows*—and hopefully other instances of violence—I have proposed *lack of bond* as the second element of my assertion, which alongside *hierarchy* would constitute a theoretical model for analyzing the question of violence. For explicating *bond*—and lack thereof—in the specific case of capital punishment, I have tested the validity and the soundness of my argument within legal, psychoanalytic, philosophic, and aesthetics realms. In the animated piece, philosophically and aesthetically

speaking, both form and substance of my argument coincide, *i.e.* the mode of expression is non-hierarchical and hopefully bond-generating. In the textual component, however, due to the inescapable nature of academic language, my argumentation is, in a sense, inconsistent in terms of form. Nevertheless, this—*i.e.* a sense of incongruity between the form and the content—has virtually always been the case in legal studies.¹ This signifies the criticality of the animated piece as a dialogical *form* of argument. In what follows—in *Gallows* and the text I have penned—my curiosity has always humbled me and constantly reminded me of how little I know; it has nonetheless kept me invariably eager to explore and learn further. Undoubtedly, investigating the complex issues of violence and the death penalty was made possible for me, only with such humility and gusto.

The relatively-short history of mankind is replete with lives terminated at the gallows. Capital punishment perhaps even predates laws; it is perhaps an extralegal sanction. Death and the fear thereof, from mythology to history—before laws took form—have always been the absolute “lord and master”.² In other words, ‘death’ is the transcendental; not only historically, but also in terms of significance, it simply goes beyond all socio-legal constructs. “The law”, Costas Douzinas maintains in his book *the End of Human Rights*, “is the outcome of desire and of a death drive which, well before Freud's discovery, linked law, desire, and mortality.”³ Therefore, for understanding capital punishment one must step beyond

¹ I will further explain this *state of discord* between the form and the substance, in my *Epistemological and Methodological Considerations*.

² For Hegel's view on this see Georg Wilhelm Friedrich Hegel, *The Phenomenology of Spirit*, (1807) A.V. Miller trans. (Oxford, Oxford University Press, 1977) pp. 272-3.

³ Costas Douzinas, *the End of Human Rights: Critical Legal Thought at the Turn of the Century*, (Oxford, Hart Publishing, 2000), p. 75.

normative laws and material history, to be able to examine the primordial elements of the death penalty. It would not suffice to remain within the realm of positive laws. Neither would it suffice to scrutinize the history in its physicality. The intrinsic realities of the death penalty are to be sought in the timeless psyche of mankind. In my argumentation, I have attempted to fathom the questions of violence and capital punishment through, *inter alia*, a psychic prism, which allows for deciphering the obscure elements [of laws and politics] of capital punishment. In my theoretical assertion—which constitutes the main portion of my dissertation—I have put forth two concepts through which the death penalty, and even the broader question of violence, can be perhaps better perceived. As noted earlier, one of the two elements of my thesis is the notion of *hierarchy*. I have sought the primeval origins of *hierarchy* in the material act of copulation. I have then argued that a mentality, born out of copulatory posture, has been engraved in the psyche of mankind—which notwithstanding its merits for humans—can be lethal. The second component of my argument is lack of *bond*. Expounding on the notion of *bond*, I have illustrated examples of hierarchical situations, which despite being formed to produce violence, have failed to do so. I have hence argued that lack of *bond* is the second prerequisite for violence and of course capital punishment. In sum, the theoretical framework, which I have suggested, is a prism to investigate violence and the death penalty. It attempts to provide an explication for the sanction of death as an instance of violence. Thus, in the light of my assertion—I humbly hope that—certain aspects of both violence and capital punishment become clearer. In the end, it must be noted that, for numerous reasons, I have not defined ‘violence’ in my thesis, firstly because it has not been at issue in my argumentation. Second, since the death penalty is in the centre of my argument, I think the audience of this study would coincide with me that at least capital

punishment—and the instances that I have deliberated in my thesis—are examples of violence.

Writing on violence and the death penalty is never easy. Drawing images on a theme of this kind is even more difficult. It can never be a mere academic exercise. If one treats such issues in a purely academic fashion—which often subdues human emotions and overvalues rationality over other cognitive attributes of humans—misunderstanding the subject-matter would be inescapable. This, however, has not been a pretext for me to evade complexity and lean towards superficial sentimentalism. Neither has it been a mere adornment of interdisciplinarity to glamorize my thesis. Quite the contrary, acknowledging the limits of rational query, and embracing the immense complexity of human emotions—especially amid an academic discourse whose pillars rest upon self-made abstractions and categorizations—has been an ambitious, valiant, and clearly difficult decision. Incorporating non-rational perceptions, in order to create equilibrium among [my] cognitive faculties, not only can enrich a study, but is also indispensable for acquiring sensible knowledge of an issue like capital punishment. Needless to say, conducting this study has been an emotionally—and rationally—demanding preoccupation of mine for the past few years. It impacted virtually all spheres of my life. It has been as Derrida notes, “a pathos-laden”⁴ path, replete with moments of sorrow and despondency. However, my only weapon to battle such dejection, my pen, did never wither but ushered me throughout the study—which can to some extent be read as an autobiographical account of violence.

⁴ Derrida notes in his seminar on the death penalty that “but who would dare conduct without pathos a seminar on the death penalty? [as if, I would prefer to begin, in a deliberately pathos-laden fashion]” Jacques Derrida, *The Death Penalty: Volume I*, Peggy Kamuf trans. (Chicago University Press, 2012) § 25.

The questions of violence and capital punishment have never been an alien matter to me. It would not be an immoderate claim to say that with any instance of violence that I have deliberated in this study I have had intimate affinity. With the wisdom, attained through bitter but enlightening life experiences, I have tackled the complex question of human suffering not through abstractions but a sort of cognition which has been first and foremost compelling to my curious, critical, and of course distressed, mind. Throughout this study, eschewing immature objectivity, I have tried to remain in the gray area of my perception. In this ‘pathos-laden’ journey, instead of pretending to have figured out the Truth, I have chosen to simply remain sincere within my limited capacities. Wherever I have invoked an example, I have had firsthand personal experience of that event or a similar occasion. To put it differently, I have not gained my—quite limited—knowledge about public executions, wars, revolutions, mass executions, and the like through just the abstractions of academia, but the verity of life. I must confess that whenever I have penned a word about war, I could vividly hear the explosion of a *real* missile that struck our neighbour’s home; wherever I have invoked an example of execution, in the background of my all-too-rational thoughts, was a *real* man dangling from the noose; and amid the warp and weft of my critique of revolution, lie my *real* memories of years of political unrest on the streets of Tehran. Nonetheless, I wish to express that by noting these, I do not intend to overromanticize my dissertation, nor do I mean to sidestep criticism by hiding behind my subjective judgment. These are all to say that my reasons to do this study have been simply beyond a mere academic achievement. Moreover, I humbly opine that realistic understandings, predicated upon both rational and emotional human perception, can support the practical utility of research to engage with real problems, otherwise with no applicability, my study—likewise many my contemporaries—

would at its best only collect dust in a corner of a library. I, however, hope that the images and words of this study rekindle meanings in my audience and inspire them for perhaps further work resulting in real change.

Apart from the content, I have also attempted to maintain probity in both form and method. The theoretical framework of my dissertation conforms to a pattern which is reflective of my own life journey. The constituent elements of my theoretical assertion, *i.e. governmentality* and [lack of] *bond*, have been predominant characterizations of my life throughout various stages of its development. Even the sequence of their appearance corresponds with the changes I have lived both in and out of the Faculty of Law. *Governmentality*—on which I expound in detail in part two—is perhaps the main motive behind my predilection for studying law, or becoming a lawyer, to overcome an insecurity which was born out of the hierarchical life conditions. This—quite rational—attribute of mine helped me excel in my legal studies, but it soon failed me in the school of life. The collapse of the rational edifice I had built in the law faculty coincided with—and was perhaps engendered by—real life experiences of mine. The miserable failure of [an expression of] my *governmentality* happened on the streets of Tehran, where seemingly-defenceless youth taught lessons of bravery to the timid militia who tried so hard to cache their cowardice behind their guns and batons. What I felt and witnessed in the uncanny valour of men and women in 2009 in Iran, *inter alia*, awakened me to an episteme of some sort that shook the pillars of my intellectual certitude—a souvenir of the law faculty which I left behind beside the gory bodies of my friends for good. My experience of the lethal forces of *governmentality*—within both myself and my life—preceded my real appreciation of the notion of *bond* among all beings. My experience of *bond* was more akin to a spiritual

revelation which was hardly decipherable in academia, but ubiquitous in arts—which I could not *see*. My fledgling cognition was simply not mature enough to *see* the true essence of what I was luckily exposed to in arts and literature for years. Therefore, in what follows, in the written section of my dissertation, I have first elaborated on *hierarchy*—which is the physical manifestation of *governmentality*—before expounding on lack of *bond*. Moreover, the entire thesis enjoys an anecdotal tone, beginning from a very physical notion of *hierarchy* to a quite nonphysical concept of *bond*. This narrative also coincides with my personal world view.

The relationship between *bond* and *hierarchy* might seem to be, as I will demonstrate, quite complex and sometimes equivocal. For instance, I am uncertain as to which of these two notions are *more* ancient.⁵ Whether *hierarchy* existed first and then *bond* came around, or vice-versa, is the chicken and the egg dilemma.⁶ What is not dilemmatic, however, is the interaction between the two. As I will illustrate, both in the graphic novella and the written component, lack of *bond* and *hierarchy* are the two sides of one coin, and their amalgamation begets violence. However, I must note that I have not treated violence merely in its physicality, and in fact I have attempted to go beyond the physical materialization of violence. Therefore, I have scrutinized both *bond* and *hierarchy* in the light of acknowledging their physical and nonphysical attributes. In simple terms, nothing is purely physical or metaphysical in my dissertation. Everything occurs somewhere within a continuum of being,

⁵ This is perhaps a wrong question. It would be a plausible predicate to conceive of these concepts in an atemporal fashion, with no past, future, and present. Although riding academic query of unilinear directionality of time is difficult—perhaps impossible—it is only in the absence of such a temporal framework that the relationship between *bond* and *governmentality* becomes clear. This is not at issue in my study, nevertheless.

⁶ Although this remains to be an amusing example in philosophical debates, the dilemma has been resolved in science through evolutionary genetics. First existed the egg, which was laid by a chicken-like bird (and not exactly a chicken). The endless chain of questions however will persist by asking, what about the “chicken-like” bird itself and so on.

enjoying traits of both physical and nonphysical poles to a certain degree. In fact, one of the main objectives of my study has been transcending the materialism of the discussions on the death penalty. Treating capital punishment in a more holistic fashion, encompassing various attributes of it, has been a challenge not least for legal scholarship suffers from some sort of undue materialism.⁷ In a sense, *seeing* beyond the materiality of capital punishment has become virtually impossible in legal studies. For this reason, I embarked upon the gruelling task of discussing not only psychic aspects of the death penalty, but its philosophic, linguistic, and of course aesthetic dimensions, hoping to explore an avenue to transcend the limits of legal materialism.

Finally, I must note that I do realize that to some my thesis—especially its mode of expression and research—may seem rather bizarre as a legal dissertation, and perhaps a formally-unfit study in the law faculty. This kind of judgment, I believe, stems from the perceived traditions of legal scholarship. However, notwithstanding the appearance of my dissertation, I would argue that my study is in the true sense of word a legal study, which not only tackles core subjects of legal studies, such as violence, sanctions, justice, and the like, but does also attempt to liberate legal scholarship from the *straitjacket* of terminologies and abstractions. The arbitrary preference of words over images, for instance, as one of the age-old traditions of [the western notion of] law, has deprived legal scholarship from a unique form of cognition. I will elaborate on this in the next section, but before concluding, I would like to say that, unlike many contemporary thinkers, I do not wish to indulge in a fruitless

⁷ I will further explain this observation in *Epistemological and Methodological Considerations*.

exercise of deconstruction.⁸ I have no interest whatsoever in doing so. I do not rejoice in a kind of deconstructing that is only followed by a passive stare at the debris of an intellectual construct.⁹ Instead, I hope to open a new window that permits *seeing* beyond the ruins. In the next section, I will explain how and why I have adopted *arts* and *grounded theory* as my epistemological and methodological tools to achieve this objective.

In what follows, after expounding on epistemology and methodology of the study, in part one, I will depict a true story, entitled *Gallows Erected in the Bedroom*, which illustrates my argumentation and its core elements. The images of *Gallows* portray both *hierarchy* and lack of *bond* and their role in the specific capital case of the story. Closely bound up with *Gallows* is the written section of my dissertation. In part two, I will attempt to substantiate my theoretical assertion and also critique my graphic novella to further elaborate my argument. In section E, *the Genesis of Other from the Matrix of Self*, for illuminating the notion of *bond*, through invoking narratives and philosophic arguments, I will scrutinize a process

⁸ The term has been appropriated in postmodern philosophy by Jacques Derrida. However, similar notions can be found in both antiquity and after the Enlightenment. Rene Descartes and Martin Heidegger have deliberated similar concepts in their work. Interestingly, the term Heidegger originally used to discuss this notion was ‘destruction’. For a brief overview of deconstruction in Derrida’s work visit: <https://plato.stanford.edu/entries/derrida/#Dec>. I do not think that Derrida’s treatment of deconstruction was in any sense mindless or futile. However, misunderstanding the purposes of deconstruction can simply translate into pointless destruction of form, which is ubiquitously found in [post]modern arts, literature, science, and other disciplines. Some *Dadaist* works of art, especially in poetry, are classical illustrations of such inclinations. In the *Dada* manifesto, Tristan Tzara, notes: “TO MAKE A DADAIST POEM, Take a newspaper. Take some scissors. Choose from this paper an article of the length you want to make your poem. Cut out the article. Next carefully cut out each of the words that makes up this article and put them all in a bag. Shake gently. Next take out each cutting one after the other. Copy conscientiously in the order in which they left the bag. The poem will resemble you. And there you are—an infinitely original author of charming sensibility, even though unappreciated by the vulgar herd”. See Tristan Tzara, *Dada Manifesto On Feeble Love And Bitter Love* (December 12, 1920), VIII. One may, for legitimate reasons, wonder how much this kind of destruction is similar to the atrocities of the twentieth century.

⁹ This mere intellectual exercise might itself be an expression of *governmentality*, an urge to deconstruct for no reason, simply because it happens to be possible within the means of an intellectual. After having expounded on *governmentality*, in the next chapters, the connection between the ‘deconstruction’ and *governmentality* might become clearer.

which gives birth to 'other'. In the third part of the study, I will examine a recent case, the mass execution of 1988 in Iran, in order both to contextualize my argument and to provide further grounds to support my thesis. By applying my theoretical framework and build upon the two elements of my assertion, I will investigate the role of the 1979 Revolution [*hierarchy*] and the Iraq-Iran War [lack of *bond*] in the mass execution of political prisoners in Iran. Finally, in my thesis conclusion, I will revisit the notions of *bond* and *hierarchy* and will put my argumentation to the test once again. Acknowledging the limits and biases of legal scholarship, I will rethink the manifestations of *governmentality* and lack of *bond* at international and national levels. Therein, I will propose an alternative approach to capital punishment, thereby hoping to open an avenue for real engagement with the problems of violence and the death penalty.

Epistemological and Methodological Considerations

“Suppose that truth is a woman—and why not? Aren’t there reasons for suspecting that all philosophers, to the extent that they have been dogmatists, have not really understood women? That the grotesque seriousness of their approach towards the truth and the clumsy advances they have made so far are unsuitable ways of pressing their suit with a woman? What is certain is that she has spurned them—leaving dogmatism of all types standing sad and discouraged. *If it is even left standing!*”¹⁰

Can we then, by the same token, imagine that what we do *not* know about the death penalty—and even law in general—is also a woman?¹¹ And, if so, how can one *hear* or *see* this too-often-dismissed woman? It would be a fruitless effort to write a dissertation on capital punishment, if the research and the researcher both remain within the previously established paradigms, or at their best, build new categories whose intelligibility strictly depend upon the pre-existing literature. It would be fruitless in the sense that such a study will be not only dogmatic but also perpetuating the dogmatism within a discipline. Therefore, to defy dogmatism of this kind, one needs, *inter alia*, different methodologies and epistemologies, ones that would permit transcending our dogmatic methods. The originality of a study is too often attributed to its content. Nevertheless, what determines the substance of research is—to a large degree—its epistemological and methodological foundations. In other words, such bases constitute the strongest biases of a study, which nonetheless enable the researcher to tackle the subject-matter in an ostensibly rigorous fashion. Once the researcher begins the quest, their cognition becomes confined within the limits of a method.

¹⁰ Friedrich Nietzsche, *Beyond Good and Evil: Prelude to a Philosophy of the Future*, Judith Norman trans. (1886) (Cambridge, Cambridge University Press, 2002), preface, p. 3.

¹¹ Antjie Krog, in her seminal work, *Country of My Skull*, discusses a similar notion, in a chapter of her TRC Report, entitled: “Truth is a Woman”. See, Antjie Krog, “Truth is a Woman,” ch. sixteen, in *Country of My Skull: Guilt, Sorrow, and the Limits of Forgiveness in the New South Africa*, (New York, Three Rivers Press, 2000), p. 233.

If the method is justified—*i.e.* resembles the conventional modes of conducting and expressing research—it remains beyond critique. But is this degree of partiality *healthy* at all? It is hard to conceive of a study which yields a kind of result that would contradict—or even challenge—the very foundations of its epistemology and methodology. Can this methodological bias limit, and perhaps blind, the sight of the observer? I humbly think it does, and even beyond that, it creates a bottomless fallacy of re-creating knowledge that only fortifies the pre-existing traditions of a discipline, fabricating knowledge that only makes sense within the paradigm of a method. Although a given methodology can make visible certain aspects of reality, on the other hand, it can also impose inordinate constraints upon research, resulting in disregard of facts and of course distortion of reality.

It would be a truism to say that form and content are equally significant, but the *form* has always been much more limited in legal scholarship than *content*. For instance, perhaps a few, if any, dissertations have been conducted in the law faculty without using words!¹² The insurmountable barrier in legal scholarship seems to be its all-too-verbal nature—or what is purported and perceived to be its nature. Moreover, in [critical] legal studies the form is seldom in harmony with content, *i.e.* the form itself can and often does become antithetical to the substance of a study. Let's assume a study on violence—like that of mine: it would be terribly inconsistent to critique violence by using an essentialist language. More generally, an excessive dominance of lexical expressions in law itself is a form of *hierarchy*, a hegemonic

¹² Given that for millennia humans did not use language, in its strictly-verbal sense, and considering the preverbal stages of human development—in one's childhood for instance—one can argue that *meanings* are not, unlike what in Aristotelian logic was claimed, equal to *words*. Therefore, it would be both relevant and imperative to investigate for nonverbal meanings. Are they all lost amid the all-too-textual discourse on law? This argument becomes even stronger when law claims to deal with certain human issues, such as suffering, violence, and the like, which all predate any legal methodology.

structure, which leaves no possibility for alternative modes of research and expression. In simple terms, if the content is critical the form, too, must enjoy an agreeable level of criticality. A purely-conformist form is not only unfit to express critical thoughts, but also a dismissive, if not hypocritical, *choice* in a sense. It is therefore more rigorous and consistent—and unhypocritical—to critique violence by adopting a non-hierarchical methodology. In other words, it would be ideal if both form and content coincide in what they signify. This is, nonetheless, a rarity in legal studies. This observation also indicates an irony in critical legal studies: adopting hierarchical methodologies to criticize *hierarchy* resembles a vain promise to extinguish fire with fire. However, the irony is not limited to the linguistic hegemony in law.¹³ Another more important limit in [conventional] legal methodologies pertains to conveying meanings. All-too-verbal modes of research often fail to communicate complex meanings, or to say the least, they rather dictate meanings than communicate them.¹⁴ In this regard, Ludwig Wittgenstein, in his celebrated work *Tractatus Logico-Philosophicus*, ‘the last book that needs to be written in philosophy’, notes:

¹³ For instance, in the heart of the conventional methodologies in legal scholarship lies a sense of superiority of verbal expressions over non-verbal ones, an absolutely-arbitrary *hierarchy*, or hegemony. For various types of hegemony and a discussion on hegemonic structures generally see: Louis Althusser, “Ideology and the Ideological State Apparatus”, in *Lenin and Philosophy and Other Essays*, (New York, Monthly Review Press, 1971), pp. 127 - 186; and Antonio Gramsci, *The Gramsci Reader: Selected Writings 1916-1935*, David Forgac S. ed. (New York, New York University Press, 2000), pp. 233-243.

¹⁴ This shift—from communication to dictation—occurs mainly due to the hegemonic forms and discourse on law, *i.e.* even non-essentialist expressions become hegemonic if they are expressed through and within a hierarchical structure. The *monological* environment in law in general, and legal studies in particular, deprives the discipline of engaging in a *dialogue*. One of the reasons behind such incapability is the tools which law utilizes to express meanings. The linguistic tools available for legal scholars are, as I noted earlier, hierarchical structures, hence they can shape and transmute the content of expressions. Think of a person, as an example, who wishes to express love by firing a gun. The bullet [the form]—regardless of the intent and the content of that expression—determines the message. Of course, this is an exaggerated example, but does it not unveil an element of truth about legal scholarship, which merely beholds *one* [linguistic] horizon to the Truth? Hans-Georg Gadamer, in his groundbreaking *Truth and Method* makes a similar case regarding dialogue and multiple horizons, thereby proposing ‘fusion of horizons’ to overcome the limits of method. See: Hans-Georg Gadamer, Garrett S.J. Barden, and John Cumming, “Language as the Medium of

“The right method of philosophy would be this. To say nothing except what can be said, *i.e.* the propositions of natural science, *i.e.* something that has nothing to do with philosophy: and then always, when someone else wished to say something metaphysical, to demonstrate to him that he had given no meaning to certain signs in his propositions. This method would be unsatisfying to the other—he would not have the feeling that we were teaching him philosophy—but it would be the only strictly correct method.”¹⁵

He also makes his famous conclusion elsewhere in his book:

“What can be said at all can be said clearly; and whereof one cannot speak thereof one must be silent.”¹⁶

I must say that I concur with Wittgenstein in principle.¹⁷ However, I disagree with his proposition. One can argue that legal language is perhaps an epitome of a type of language incapable of conveying “something metaphysical”. But, instead of remaining “silent”, one can—and perhaps must—adopt alternative modes of expression and research to engage with such meanings. These observations compelled me to adopt a rather different path, to acquire more sensibility and also consistency with the content of my research. In what follows, I will briefly explain the two epistemological and methodological approaches that I have utilized in my study.

Hermeneutic Experience”, in *Truth and Method*, 2nd ed. Wahrheit and Methode trans. (London, A Continuum Book, Sheed & Ward, 2004), pp. 385-483.

¹⁵ Ludwig Wittgenstein, *Tractatus Logico-Philosophicus*, (New York, Harcourt, Brace & Company INC., 1922), p. 90.

¹⁶ Wittgenstein, *Tractuc*, *supra* note 15, p. 23.

¹⁷ For instance, for the linguistic challenge that Wittgenstein posed upon law see, Bert Van Roermund, “Rules as Icons: Wittgenstein's Paradox and the Law,” (2013) 26 (4) *Ratio Juris*, pp. 538-559. One of the ways to overcome a paradox of this kind, in legal scholarship, is—as the author argues—to perceive rules as icons—or in Wittgensteinian language, “pictures”. Therefore, if one can *properly* add ‘pictures’, as linguistic morphemes, to the paradigm of law, it will both resolve the antinomy and evolve the paradigm into a more coherent and *meaningful* one. Later and elsewhere, I hope to expound upon this methodological point of view, which not only justifies but necessitates the use of images in law, and especially in legal scholarship. For a reading of *Tractatus* against the logic of law see, Ben Herzberger, “Wittgenstein's 'Tractatus' and the Law,” (2012) (6)1 *Law and Humanities*, pp. 65-83.

A. Grounded Theory as Methodology

I have been inclined towards utilizing Grounded Theory (GT) as methodology¹⁸ in my dissertation for numerous reasons. First, I was willing to rid myself—to the possible extent—of countless biases that a methodology can create. By applying GT, the researcher can minimize the impact of external biases. However, it is virtually impossible to overcome internal, *i.e.* personal, partialities altogether. I think there is no need even to attempt to liberate the researcher from such constraints. Such positional particularities—upon which I briefly touched in the introduction—make a study unique and augment the richness of academic literature. The challenge, however, is to make a balance between such biases and objectivity. I have neither the audacity to claim nor a desire to be fully objective. Nonetheless, GT helped me engage with the subject-matter, through making observations, in a more liberal fashion. I did not begin my research with classic methodological limits, such as a hypothesis or even a clear question; instead, much like natural sciences, I started my study with mere observation, constant and careful observation of realities. I carefully observed various instances of violence and especially capital punishment. But as you will see in the study, I have been constantly oscillating between the specific case of capital punishment and a general conceptualization of violence. This was inevitable, in part, due to the methodology that I had adopted, since the purpose of GT [as methodology] is, *inter alia*, ultimately to

¹⁸ Grounded theory (GT) as methodology, which was born in sociology, can be used in both quantitative and qualitative research. GT, which was considered groundbreaking in the 70s, has been evolving since then. There are two major branches of GT, namely Struassian and Glassarian. For more information on this methodology see Grounded Theory Online, Bibliography and References, available online at <http://www.groundedtheoryonline.com/bibliography-and-references/>; also see Juliet Corbin and Anselm Strauss, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*, 4th ed. (Sage Publications, 2015); Anselm Strauss and Juliet Corbin, “Grounded Theory Methodology: An Overview,” chapter 17 in Norman K Denzin and Yvonna S Lincoln ed. *Handbook of Qualitative Research*, 1st ed. (Sage Publications, 1993), pp. 273-285.

develop a theory which can explain not only the specific case—with which the researcher initially grapples—but also other similar cases. A theory, born out of constant comparison and analysis of data, is the fruit of GT. Moreover, the point of departure for a GT researcher is virtually always a specific case, an anomaly or a pattern that can kindle a sense of curiosity in the researcher; this initial point in my thesis was the novella of *Gallows*. This also explains the sequence of different pieces of my dissertation. My theoretical framework is in a sense born out of an abductive reasoning, providing the simplest and most likely explanation for the case of *Gallows*. Subsequently, I had to test my theory, grounded in my observations, against other similar instances.

Interestingly, in GT the literature review happens once a theory is formed based on observations. A legal question may then require literature review in, say, psychology or linguistics, because the researcher might find more relevant literature, for the specific theory, in other disciplines. This, however, is virtually impossible, had I applied other methodologies. A formalist or positivist study in law cannot rely on data found in, say, medicine or ethology. In GT, the researcher is faithful to providing a sensible explanation, and not the method itself; the researcher is committed to putting forth a theory that would primarily explain a concept—not merely conform to a certain methodology. This stems from the *exploratory* nature of GT as methodology. It can also explain why I have utilized a wide range of data, from various disciplines, ranging from law to psychology and from biology to linguistics, to elaborate the complex question of the death penalty. Amongst various fields, however, one has been unique in essence and different in nature, which not only was a discipline shaping my mode of collecting data and expression, but also established the epistemological foundation of my study.

B. Art as Epistemology and Methodology

Throughout the years that I have spent in the law faculty, one single irony—amongst numerous inconsistencies with which we are all familiar—has kept me preoccupied, a simple but deeply unsettling exercise in law, *i.e.* ‘to speak of the unspeakable’, or to claim to [be able to] verbalize fathomless realities in words. This, I must admit, is an audacious exercise that legal scholars—whether out of intrepidity or recklessness—have been engaged with here and there. It is virtually a metaphysical claim ‘to purport that one is capable of speaking of the unspeakable’, not to mention the irreconcilable antinomy between the predicate and the subject in that sentence. Clearly, certain human experiences are never reducible to the language of law; lexical units are simply too limited a container for conveying vast meanings and realities of, say, genocide, capital punishment, war, and the like, unless one engages with language in a poetic and inexact fashion, which thus far has not been taken seriously in law. This ‘unspeakable’ reality of legal issues—which I have named *restless reality* elsewhere—¹⁹ has been, in effect, entirely marginalized in legal scholarship. This is perilous; the loss of a connection with the chaotic reality—and I place emphasis on *reality*—is perhaps one of the

¹⁹ In a paper, entitled “Art and Human Rights: An Aesthetic Critique of the Discourse on Human Rights”, I have proposed a notion, a continuum of realities, with two poles, namely *arrested reality* and *restless reality*. This conceptualization is not yet another dichotomic theory of reality—such as that of Nietzsche or Plato—but an explanation that attempts to make sense of both physical and non-physical realities in relation to one another. The *arrested reality* constitutes a realm, or a spectrum, wherein delineations, exact definitions, categorizations, and the like happen. On the other pole, the *restless reality*, can be only vaguely—since it is by nature vague—understood within characteristics such as undefined, immeasurable, chaotic, and so forth. Legal scholarship has perhaps mastered the *arrested reality* of legal issues through its fetishistic definitionalism and other similar inclinations. On the other hand, and precisely due to the inordinate tendency towards the *arrested reality*, it has deprived itself of engaging with the boundless realities, which ironically give meaning—through a symbiotic relationship—to the limited realities we conventionally deal with in law. Acknowledging the existence of a *reality* of this kind, in all legal issues, which cannot be captured, fathomed, or conveyed through what we normally consider legal language, is crucial to perhaps redefine our paradigmatic understandings of law, to perhaps ‘liberate’ law from its own prison. See Omid, B. Milani, “Art and Human Rights: An Aesthetic Critique of Academic Discourse on Human Rights,” *2015 Canadian Yearbook of Human Rights* 147-156.

main reasons why law has been incapable of providing meaningful solutions to certain complex issues even within its own paradigm. But I do not want to overgeneralize and paint everything with a broad-brush; there are, of course, legal scholars who pursue *meanings* at the forefront of the limited sphere of law, scholars who are pushing the boundaries to bring more sensibility to legal research. Such scholars are *rarae aves* nonetheless, who transcend the mundane frontiers of law and revive the lost connection with restless realities. But what if the connection is—as generally speaking is the case in the faculty of law—lost? What happens to someone whose grip on *reality* is lost? As most of us would reaffirm, losing grip on *physical* reality constitutes psychotic conditions; can we then, by the same token, conceive of some sort of legal psychosis, in the mainstream legal scholarship? An unhealthy condition which is born out of losing *bond* with the restless, unconscious, or unspeakable realities; and if this is true, are those brave scholars—engaging with restless realities—like therapists in the legal ivory tower; therapists whose work aims at healing through reviving a *bond* and integrating the restless reality into a wholesome understanding of reality, rather than fragmenting and categorizing it? Such scholars—very much like artists—inhabit a unique cognitive realm, wherein restless and arrested realities amalgam, wherein a confluence between the conscious and the unconscious occurs. Whatever the nature of that realm is,²⁰ I think *imagination* is an effective vehicle to take us there, to let us explore the oft-dismissed

²⁰ The existence of this unique realm is not a hypothetical claim. In recent decades, with brain imaging technics, scientists have proven that images, imaginations, and even more specifically ‘cartoons’, engage a different part of the human brain, which is otherwise unengaged. In other words, it is now a matter of fact that human cognition is not limited to its verbal capabilities, and imagination—even in the form of what we call hallucination—has a unique landscape. To put it simply, through cartooning for instance, one can see things that no verbal expression can convey. For an example of the differences between verbal and non-verbal cognition (in the specific case of cartooning and storytelling) see, H.L. Gallagher, F. Happé, N. Brunswick, P.C. Fletcher, U. Frith, and C.D. Frith, “Reading the Mind in Cartoons and Stories: An FMRI Study of ‘Theory of Mind’ in Verbal and Nonverbal Tasks,” (2000) 38(1) *Neuropsychologia*, pp. 11-21.

realities. Then can we argue that artists, with insightful imagination and sincere expressions,²¹ are epitomes of such scholars whose works are not only therapeutic for legal research, but for society in general?

This explains what I have meant by *aesthetic critique*, which more than creating categories is concerned with unveiling realities and exposing what is otherwise not—or cannot be—*seen*. Today, law more than ever needs aesthetic critique. It is vital to rekindle a type of cognition which can appreciate both restless and arrested realities. The peril—of dismissing aesthetic critique—is no longer lurking legal scholarship, it has already been actualized. I am speaking of an existing condition, not an imminent danger. The split, between the realities, which has already occurred, can become irretrievable if we keep neglecting the disintegration. I believe, when Albert Camus, in his *Reflections on the Guillotine*, notes the following, he is, too, referring to a *euphemistic* language, which can be well translated as a symptom of a lost connection with *reality*.

“Indeed, no one dares speak directly of the ceremony. Officials and journalists who have to talk about it, as if they were aware of both its provocative and its shameful aspects, have made up a sort of ritual language, reduced to stereotyped phrases. Hence, we read at breakfast time in a corner of the newspaper that the condemned ‘has paid his debt to society’ or that he has ‘atoned’ or that ‘at five a.m. justice was done.’ The officials call the condemned man ‘the interested party’ or ‘the patient’ or refer to him by a number. People write of capital punishment as if they were whispering.”²²

²¹ In *Art and Human Rights: An Aesthetic Critique*, I have proposed an aesthetic system which can be utilized in legal scholarship. Not all kinds of art *qualify* as a reliable source of episteme. An aesthetic judgement is required for this purpose. The characteristics of a work of art that can be used in law—which I have called *Minouique Art* based on Iranian mythologies—includes, *inter alia*, sincerity, insightfulness, and clarity. In my paper, I have also been inspired by Immanuel Kant’s definition of art as a “free play of imagination”. See, Immanuel Kant, *The Critique of Judgement* (1790), James Creed Meredith trans. (Oxford: Clarendon Press, 1969), especially the ‘Deduction of Pure Aesthetic Judgments’ & section 51. For my aesthetic system, see: Milani, *Art and Human Rights*, *supra* note 19, pp. 151-154.

²² Albert Camus, “Reflections on the Guillotine,” in *Resistance, Rebellion, and Death*, Justin O’Brien trans., (Modern Library, New York: 1963), p. 132.

In response to this observation he maintains: “But when silence or tricks of language contribute to maintaining an abuse that must be reformed or a suffering that can be relieved, then there is no other solution but to speak out and show the obscenity hidden under the verbal cloak.”²³ He then succinctly concludes:

“When the imagination sleeps, words are emptied of their meaning: a deaf population absent-mindedly registers the condemnation of a man. But if people are shown the machine, made to touch the wood and steel and to hear the sound of a head falling, then public imagination, suddenly awakened, will repudiate both the vocabulary and the penalty.”²⁴

There exist therefore two options before us: either experiencing the reality in a direct fashion, with no medium, or to engage with such realities through imagination. The former—which Albert’s father did and subsequently changed his view on the death penalty²⁵—is virtually unattainable for *all* issues in law. The latter, however, is possible. And it is upon the artists to awaken the audience to the *meanings* that are lost in the “noble phrases” of law. It is, nonetheless, very difficult for an artist to help integrate unconscious realities into our conscious cognition. It is painful but also healing. Like the father of Camus, whose experience made him *vomit* numerous times, to embrace and accept the reality, the artist too—for *seeing* what others perhaps do not or cannot see—brings up images to the conscious of society, the images that are *restlessly* operating in the mind of the artist and are *arrested* through a medium in a work of art. The artist—like myself depicting the images of *Gallows*—engages

²³ Camus, *Reflections*, *supra* note 22, p. 133.

²⁴ Camus, *Reflections*, *supra* note 22, p. 133.

²⁵ Camus writes: “What he [his father] saw that morning he never told anyone. My mother relates merely that he came rushing home, his face distorted, refused to talk, lay down for a moment on the bed, and suddenly began to vomit. He had just discovered the reality hidden under the noble phrases with which it was masked. Instead of thinking of the slaughtered children, he could think of nothing but that quivering body that had just been dropped onto a board to have its head cut off.” see Camus, *Reflections*, *supra* note 22, p. 132.

in an agonizing exercise of integrating unconscious images [of reality] that are otherwise inaccessible to us.²⁶ It is painful but, as I noted earlier, also cathartic. It is painful because when the artist draws, say, an executioner, he is drawing an image of an executioner found in his own unconscious, in his own psyche, *his own executioner* in his inscape, part of himself, which is inhumed in the unconscious. To help those images surface, to let them appear and reify in the conscious realm, is initially gruesome, since it lets the artist *see* and encounter parts of his *being* that perhaps others for whether lack of courage or insight are incapable of *seeing*. The artist, in other words, encounters the *eerie* pieces of himself, and materializes and lives the uncanny. The artist mediates those restless images through depicting them on paper. When I started drawing *Gallows*, I virtually knew all the legal facts of the case, every detail thereof. But I soon surprised myself, when I found myself unable to restrain my tears while I was drawing the images, as though I was engaging with different aspects of realities of the case, something that I did not know, or I could not *see* through the limited lens of my academic skills. I wept tears with the girl in *Gallows* who was battered, because I felt the girl in me was beaten. I shed tears with the bystanders who ‘absent-mindedly’ registered the death of a human, since I could *see* bits of myself in every one of them. Those seemingly alien men and women watching an execution were no longer unknown to me after I retrieved their images from my own unconscious. They all became part of me, part of my conscious, once I depicted them. It is not easy to *be* a bystander to an execution, neither realistically nor imaginatively. When I drew the last scene, I remember seeing dreams night after night, where I was sentenced to death, where I helplessly sought a little care from people

²⁶ A similar process in psychology exists, which is also healing, aiming at integrating the unconscious into the conscious. The process is called *individuation* which I will revisit briefly in my theoretical assertion.

surrounding me, those who could not *see* the reality; I always tried to run away from the unfair penalty, but... when I finally drew the last image, it was the girl in me who was put to death, it was part of me who was killed on the gallows; no other words can explain the *bond* I felt with the girl in *Gallows*. The ink I used to draw those images became the blood and tears of mine, a cathartic exercise which helped me escape the captivity of law, like the bird flying away in the last scene.

Part One: Gallows Erected in the Bedroom

A. Production Summary

My argumentation, as I noted earlier, partially appears in the form an animated piece. *Gallows* is in a sense a pictorial and audio expression of my thesis. Therefore, similar to a thesis, the initial step for making the animation was collecting data and learning about the facts pertaining to the story. In so doing, I reviewed the factums of the court decisions [The Provincial Court of Appeal and the Supreme Court], and especially the context facts noted therein. I also listened to the defendant's lawyers and their account of the story. Finally, before drawing the images, I found a letter written by the inmate, "the night before the end". However, the final piece is by no means an *accurate* account of the facts that I have collected. Apart from purely imaginative images, the story is narrated from my subjective, hence biased, perspective. The next step, after having collected data, was a relatively-long cognitive process, making observations of the facts through not only a realistic standpoint, but active imagination. This dichotomous observation allowed me both to feel and to ponder upon the story. This was when the characters and their images—through active imagination—were retrieved from my inscape. Then I let those images appear on the paper; I let them be *seen*. Both cognitively and emotionally, this was the most demanding phase of creating *Gallows*. Next, I had to narrativize the story to depict the fruit of my observations, *i.e.* my argument.

The sequence of *Gallows'* events is cyclical. The story begins where it ends. Rather than following the classic standards of storytelling—*i.e.* exposition, conflict, climax, *etc.*—I began without providing context. I did so for two reasons; firstl, *Gallows* is not an animation to entertain, but to demonstrate a thesis. Thus, what mattered to me was a clear expression

of my argumentation, rather than entertaining the audience. Second, due to the time limit,²⁷ I had to forgo the details of the context, hoping that my audience, who are academics, are familiar with such legal stories. Once the narrative was complete, I started sketching the scenes. This stage took about three months. Afterwards, I had to ink and tone the images, which is perhaps the most laborious stage in creating graphic novels. To depict the grim realities of the story and suggest a bipolar continuum of life and death—within which the narrative develops—I used all colors [black] and no color [white]. Therefore, the work was inked and toned in gray scale. Once the images were inked and toned, the next step was rendering them for graphic, motion, and visual editing programs that I utilized.²⁸ After having prepared the final images, I had to write a short narration to be recorded and mixed with songs. The narration is—like the graphics—both realistic and fantastic. In my eyes, it is—alongside the songs and cartoons of *Gallows*—one of the most powerful elements of the piece.²⁹ For recording the narration I had no choice but to turn my apartment into a small studio, with pillows and blankets on its walls and windows, to create my desired acoustic properties, which were nonetheless randomly disturbed, for numerous times, by the never-ending noises of downtown sirens and construction. The task, notwithstanding difficulties,

²⁷ I was temporally confined both in terms of the length of the animation and the time I had to complete the piece. Animated pieces and graphic novels are usually made by a team of experts in various fields who work for months, sometimes years, on a single project. By the fourth year of my doctoral studies, I had decided to utilize art as a mode of expression in my thesis, meaning that I had only two years to complete the piece. Moreover, an entire duration of doctoral studies will never suffice for *one student* to create a fully-animated piece.

²⁸ The applications I used for this piece were Adobe Photoshop™ and Adobe After Effects™.

²⁹ I must admit that due to a number of reasons, primarily time and perhaps my lack of expertise, the *animation* of the piece could have been done much better. The movements of characters and objects, which is highly time-consuming, is a shortcoming in my work. The entire piece, in general, is far from perfect. However, this piece is perhaps the first of its kind in legal scholarship, which can, hopefully, set a foundation for producing much better works in the near future.

was done over a few weeks, which was then followed by sound editing.³⁰ In order to let the images talk for themselves, I selected a number of songs, which I hoped would convey the significance of a story about life and death. To this end and based on my reflections on the narrative, I thought that choir—or pieces with choral elements—would accomplish this objective. While drawing the images, I could hear similar voices in the background of my imagination, especially regarding the opening and the final scenes. All musical pieces used in *Gallows* are amalgamations of more than one musical tradition; they represent an aesthetic *bond*, a *fusion*,³¹ among various genres and cultures of music. Nour Ensemble's album, for instance, intermingles European Medieval music with Kurdish and Iranian traditional music.³² Loreena McKennitt's works are also enriched with not only Celtic elements, but *oriental accents*.³³ And finally Skruk and Dadashova's piece³⁴ is a mixture of an old folkloric song from Azerbaijan—from where my parents originate—and verses of a Norwegian choral piece. In sum, I hope that despite the flaws and shortcomings, *Gallows*—which is inevitable in any novelty—would *animate* some of the lifeless jargons that I have subsequently written in my dissertation.

³⁰ I used Audacity™ for sound recording and editing.

³¹ Regarding the fusion of traditional genres of music—to create a novel musical genre—Gadamer's notion of *fusion of horizons* comes to mind, especially where he maintains: "In fact the horizon of the present is continually in the process of being formed because we are continually having to test all our prejudices. An important part of this testing occurs in encountering the past and in understanding the tradition from which we come. Hence the horizon of the present cannot be formed without the past. There is no more an isolated horizon of the present in itself than there are historical horizons which have to be acquired. Rather, understanding is always the fusion of these horizons supposedly existing by themselves." See Gadamer, *Truth*, *supra* note 14, p. 305.

³² Nour Ensemble, *Alba* (Music Album, Iran, 2005).

³³ For instance, listen to Loreena McKennitt, "Night Ride Across the Caucasus," in *the Book of Secrets* (Song, Canada, 1997).

³⁴ Skruk and Brilliant Dadashova, "Bayat Shiraz Tasnifi," (Norwegian: Kvinnen I Kis), in *Landet vi kommer fra* (English: *The Land We Come From*), (Song, 1997).

B. Storyboard³⁵



 The night before the end is a special night; it is like no other night. That night, evanescent moments were omens of a death, her death, that would be delivered before the dawn, before the city wakes up, before the fresh rays of sun would reach the cold scaffold. Tomorrow the crime and the punishment will be entangled in the knots of the noose. But that night was only the end of a story, a story that only a pen and a scrap of paper could relate, a story whose conclusion was written, long ago, by the hands of another human. And with her trembling hand, she wrote her final words, plunging into her—sweet and bitter—memories.

 Loreena McKennitt, “Dante’s Prayer”, in *The Books of Secrets*, (Song, 1977)

³⁵ The animated version is available online: <https://youtu.be/i8F4oufw9uE>



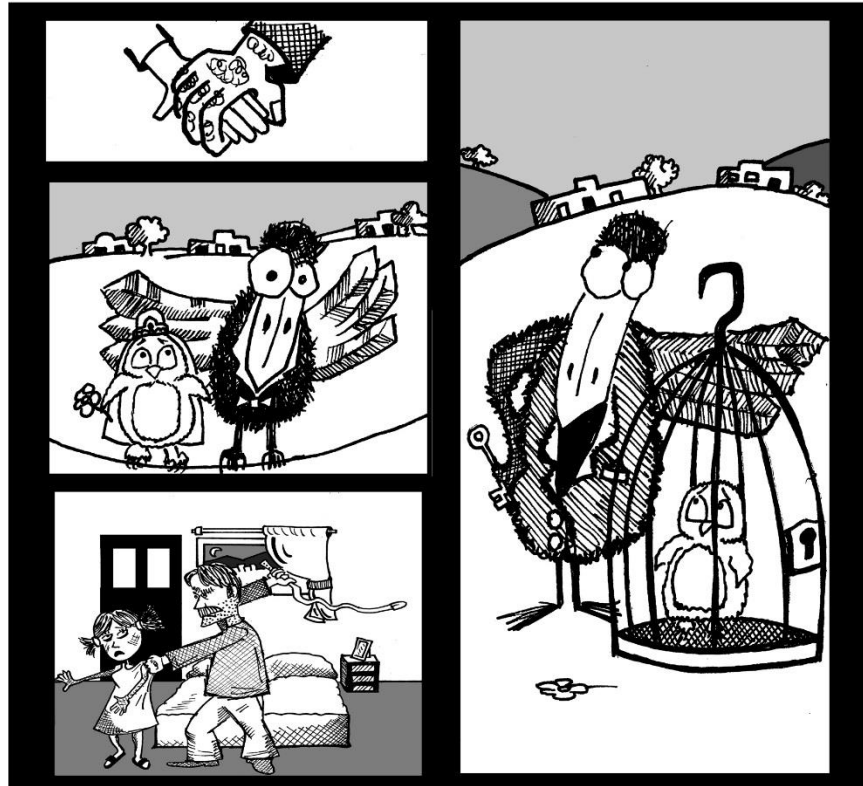
 A very small town, was where she grew up in. A few buildings, the tallest of which was perhaps a two-story one, and a mosque were almost all you could see in her town at first glance. Her favorite though was the school, where she could learn new things, play with her friends, and show off her childlike smile to the world.

 Nour Ensemble, “Villancico”, in *Alba*, (Song, 2005)



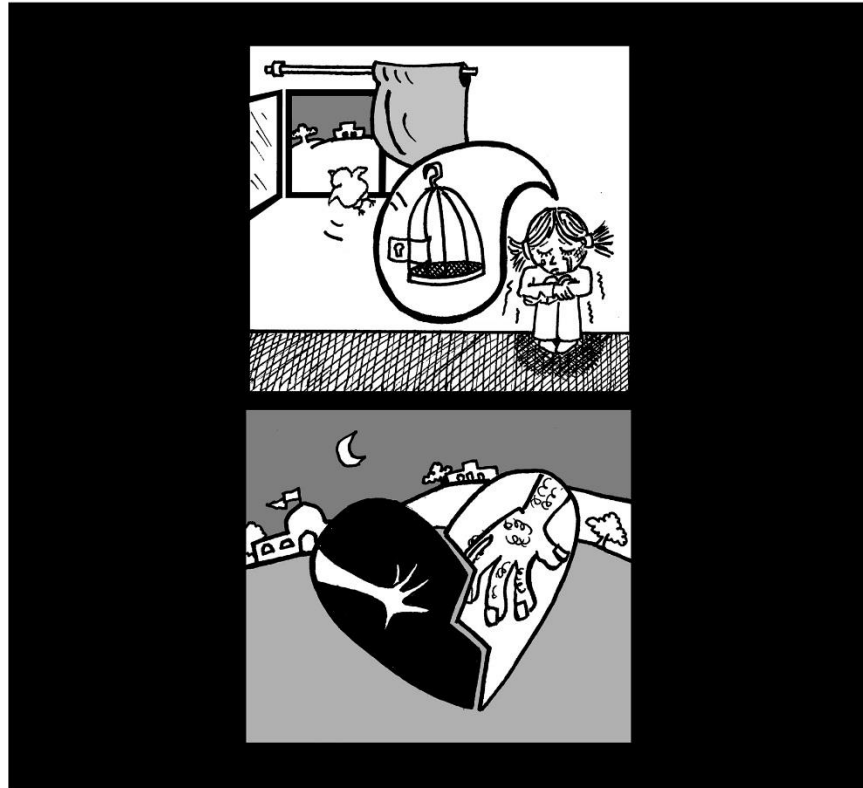
 Her parents, much like all other parents in the town, were so kind to their child. Neither her mom’s big black chador, nor her dad’s walrus moustache could hide their love for her. When she was old enough—or “marriageable” as people in the town say—her parents had to think of an “idea husband” for her.

 Nour Ensemble, “Villancico”, in *Alba*, (Song, 2005)



And who, in that small town, would ever be better than her cousin? He was older than her, but it wouldn't matter in a righteous marriage, after all, as the old saying goes "cousins' wedlock is bound in the skies". Between the 16-year-old girl and her cousin was a world of difference, and unlike her father, behind her cousin's moustache, was never a sweet smile... Soon, everything changed and she found herself in the midst of an unbearably-painful marriage.

Loreena McKennitt, "The English Ladye and The Knight", in *An Ancient Muse*, (Song, 2006)



 Every day, she wished she could go home again. Soon, out of luck or misfortune, after only a few weeks, her first marriage was brought to an end and the man left her for good.

 Loreena McKennitt, “The English Ladye and The Knight”, in *An Ancient Muse*, (Song, 2006)



 But the ephemeral moments of liberation vanished in the twinkling of an eye, and she found herself in a bigger cage, this time as big as her town, whose every corner was now replete with the eyes of people who relentlessly judged her. Life was now more bitter than ever. It was worse than the worst marriages.

 Vangelis, “12 O’Clock”, in *Heaven and Hell*, (Song, 1975)



 Her parents, once again, came to help her. They knew of a man in the city, who was ready to marry a divorced girl. But he lived far from her small town. So, she had to leave; she had to leave her home, her now intimidating town, and her once loved school.

 Loreena McKennitt, “Night Ride Across the Caucasus”, in *The Book of Secrets*, (Song, 1997)



City was nothing like her small town, with tall buildings whose heads were well-above—lord-knows—clouds or smoke, with horrible swear words everywhere, and she was all alone, in the hectic business of the city, desperately looking for her new self.

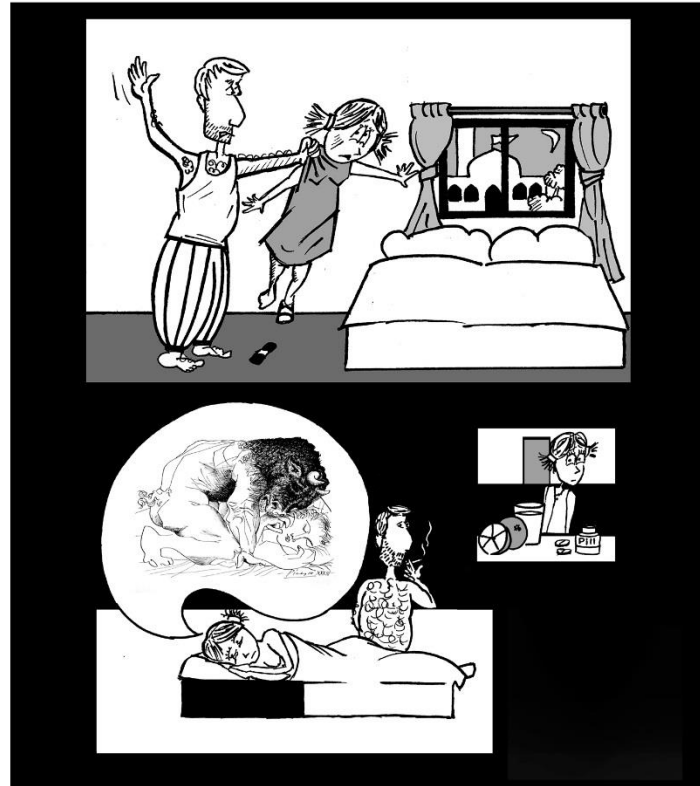
Nour Ensemble, “Miragress Fremosos”, in *Alba*, (Song, 2005)



They had almost nothing in common. His stature, soon, dwarfed her already-vanishing dreams.

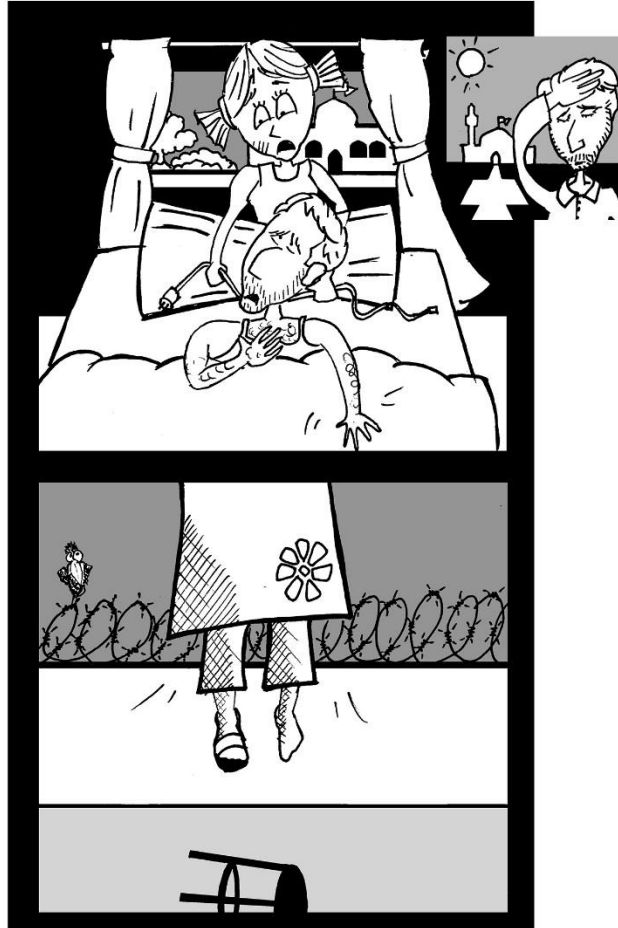


Nour Ensemble, “Miragress Fremosos”, in *Alba*, (Song, 2005)



 The man who was supposed to let her taste happiness again, added another chapter of anguish to her book of life. The gap between them, widened every day and night, made her think of suicide every day. One day, she gave in and put a handful of pills in a cup of orange juice to drink and end her miserable life. But she, right before drinking the juice, changed her mind. She thought, “Why not ridding myself of the man, the evil, who has taken away happiness from my life?”

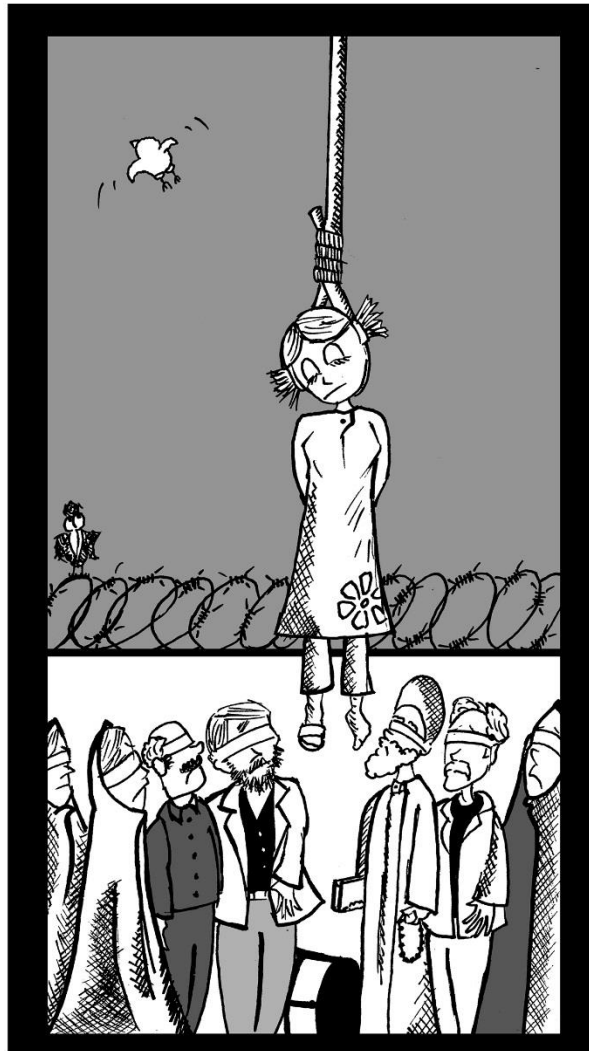
 Loreena McKennitt, “Dante’s Prayer”, in *The Books of Secrets*, (Song, 1977)



After drinking the juice, he felt dizzy and drowsy. Once asleep, she, perhaps for the first time in her life, found herself superior—literally superior—over a man; she strangled him to death...and as the sun was rising, the wobbling stool under her feet was already pulled off.



Loreena McKennitt, "Dante's Prayer", in *The Books of Secrets*, (Song, 1977)



To balance the inharmonious scales of justice, she was the only one chosen to pay off; she was the only one to atone; she was the only one to swing on the gallows. Now, she could see the sun and *hear* the crow in everyone; and as she finally flew away, she could see the absent-minded who could not see...



Skruk and Brilliant Dadashova, “Bayat Shiraz Tasnifi” (Norwegian: Kvinnen I Kis), in *Landet vi kommer fra* (English: The Land We Came From), (Song, 1997)

Part Two: Gallows Erected in the Bedroom: A Critical Analysis

It took seven and half million years of work for the *Deep Thought*, a super intelligent computer, to figure out the meaning of life. In *The Hitchhiker's Guide to the Galaxy*, a highly intricate man-made machine, “the greatest one ever”, was designed to give a *simple* answer to the question of life. After seventy-five thousand generations, the answer came to be forty-two!³⁶ People then had to create another machine, more complex this time, to understand what the question meant and how “forty-two” would be a valid answer to life. The story of *Deep Thought*, in many ways, resembles the academic discourse on a large number of legal issues. The legal discussions on life, death, and violence bear a striking resemblance to the *Deep Thought's* story. The self-manufactured obscurity, on the one hand, and the irrepressible urge for oversimplification of issues on the other hand are the two most prominent aspects of this analogy. These two tendencies are, however, contradictory. The irreconcilable antinomy lies in the nature of these tendencies. The quest for such meanings in the self-made inextricable tangle of legal scholarship tends to yield disappointment, or, at its best, illusive success.

Having armed myself with healthy skepticism, I wonder if the meanings of life, death, and violence are clouded—due to our dilemmatic predilection for oversimplification and over-fabrication—is then the significance of capital punishment, *a fortiori*, distorted beneath such opaqueness? Quite ironically, regarding the corpus of scholarship on the death penalty,

³⁶ The *Hitchhiker's Guide to the Galaxy* is a comedy science fiction, written by Douglas Adams, that was originally aired on BBC Radio 4 in 1987. See Douglas Adams, *The Hitchhiker's Guide to the Galaxy* (Radio Script, Hanomag, Doc. Version 1, 2001).

a lifetime would perhaps be too brief for casting a cursory look over the scholarly works written on capital punishment.³⁷ Nonetheless, only a few, if any at all, have succeeded in stepping beyond the murkiness of legal scholarship. In my eyes and in particular, the sanction of death, through which I will attempt to look at the general problem of violence, has been dimly, and perhaps mistakenly, perceived. Misapprehensions of this kind stem from a number of epistemological and methodological reasons.³⁸ I will return to this opacity and its elements shortly, but before doing so, I would like to cast a look upon the concept of violence itself. In so doing, the death penalty would be a window that informs, and also tests my ideas on violence. In fact, the portal of capital punishment opened my eyes to deeper layers of truth behind violence, which I could not dismiss in my critique.

A. On Violence

Before I pen my analysis, I think I must sincerely confess that I do not purport to have understood the concept of violence, nor do I claim to have overcome the complexity of it. Quite the contrary, I am well aware of the limits and subjectivity of my argument. My ultimate objective in my argumentation, that I ambitiously hope to achieve, is to give a subjective and

³⁷ Throughout my research, the darkness of my ignorance has been illuminated by many fascinating scholars in the field, amongst which I can name three: Jacques Derrida, Albert Camus, and William Schabas. To comprehend capital punishment one ought to begin by reading William Schabas, *Abolition of the Death Penalty in International Law*, 3rd ed. (Cambridge, Cambridge University Press, 2002); Jacques Derrida, *The Death Penalty: Volume I*, Peggy Kamuf trans. (Chicago, Chicago University Press, 2012); and, Albert Camus, *Resistance, Rebellion, and Death*, Justin O'Brien trans. (New York, Modern Library, 1963). However, this irrepressible urge for mere creation and production of knowledge reminds me of the notion of *Homo faber*; which highlights a specific capacity of humans, i.e. the capacity to fabricate and create. *Homo faber*, Hanna Arendt believes, misunderstands life as a process of making and fabrication, a misunderstanding of the means and ends categories. For *Homo faber*, she writes, "[T]he distinction between means and ends...simply does not make sense, and the instruments which *Homo faber* invented...therefore lose their instrumental character (Arendt, 1998: 143). For an analysis of the concept of *Homo faber*, instrumentality, and Hanna Arendt's ideas on arts, as products of *Homo faber* see: Hanna Arendt, "Work," in *The Human Condition*, 2nd ed. (Chicago: University of Chicago Press, 1998), p. 145.

³⁸ See *Epistemological and Methodological Considerations*.

sincere account of the use of violence in the specific example of capital punishment. Acknowledging my positionality and subjectivity will, hopefully, keep me humble throughout my analysis. This is, however, not to say that my thesis is not explicable and defensible against the yardsticks of reason. My perception of violence is ultimately put to the test of logic, by referring to specific examples. Figuratively speaking, while I keep my head above the clouds, seeking a general theory of violence, my feet are on the ground, constantly questioning my theoretical propositions. Oscillating between a concrete example of 'killing' and a conceptualization of violence, I hope to provide both a theoretical framework and a contextualization of violence. Violence, nonetheless, is not a purely rational concept, that is, it cannot be wholly fathomed within our rational faculties. Violence not only emerges, at least in part, from non-rational realities, but does also entail non-rational implications. Thus, any fair contemplation on violence must involve some sort of reference to the *non-rational*. In short, reason and our rational arsenal will never suffice to grasp violence and, of course, capital punishment. No doubt, non-rational understandings, as relevant and crucial as they are, cannot be subject to any kind of objective judgement. In the absence of such judgement, I am thus obliged to remain sincere, throughout my critique, especially in my non-rational expressions. Based on this observation, I am compelled to invoke both arguments and feelings for understanding the meaning of violence. The latter, alas, has often been disregarded in legal writings. I, however, think that our non-rational faculties must be rekindled, alongside our reason to tackle such intricate subjects. Finally, and most importantly, I must admit that I do not, by any means, intend to *create* new categories to explicate violence; rather, I will adopt an exploratory approach in my argumentation—hoping to unveil and expose a small, but significant, corner of reality.

Founding the bases of my argumentation on a concept of violence is indispensable simply because without attempting to understand violence my argument could lack originality, consistency, and rigour. Therefore, I am obliged to rethink the concept of violence in a fundamental and philosophic fashion. In particular, providing a conceptual framework for violence is pivotal to my inquiry about the death penalty. In fact, my understanding of the specific sanction of death must also be compatible with a more general theory of violence. It is however noteworthy that although I admit that my conceptualization is largely informed by capital punishment, the concept of violence, that I will expound, could also have relevance in other contexts. To put it differently, capital punishment has functioned as a vanishing point in my analysis. As I noted earlier, my critique of execution, therefore, must be congruous with my general understanding of violence. In the absence of such conceptualization, my understanding of the death penalty will be simply impaired and incomplete.

Reflecting on the notion of violence, and especially killing, one cannot help but think of its primordality. Since the very outset of humanity, and throughout all stages of human development, mankind and violence have been inseparable comrades. The dawn of humanity, mythologies, and the tales of genesis, are marked by stories of fratricide in many cultures and religions.³⁹ Since Cain slew Abel, violence and fear thereof have been haunting

³⁹ In Roman mythology, for instance, Romulus slew Remus. In Babylonian mythology, Marduk had to slay Tiamat, the dragon of Chaos, to commence creation. In Persian mythology, although the first two humans on earth, named *Mashya* and *Mashyana*, emerge out of a plant, and they share the same root—wherein no distinction as to their sexuality and other human attributes exists—the seeds of the plant were put in the ground after the death of *Keyumars*, who was killed by *Ahriman*, the Spirit of Evil. *Keyumars*, etymologically speaking, means life and death, the two dimensions of all beings. *Mashya*, similarly, shares an etymological root with that of *mard*, *mar*, and *mâr* (Respectively in English: man, to die (death), and to kill). In modern English, the terms mortal and man, and in French *mourir* and *mort* stem from the said origin. For Persian myth of creation, see: Faranbaq Dadegi, *Bondahesh* (English: *Originary Creation*), circa 1500 CE, compiled and translated by Mehrdad Bahar (Toos Publication, 2010: Tehran). For the

every single human being. The companionship of mankind and violence exhorts any inquisitive mind to hesitate and wonder before any further inquiry—to wonder whether violence was, or has been, instrumental in the survival of species and therefore necessary—and whether ridding humanity of violence is at all a worthwhile predicate, or it just suits an enchanting title for yet another scholarly work. Without, at least, entertaining a response to such questions, any query about violence will be virtually vain and unlikely to yield fresh understandings. Therefore, violence as a means, regardless of its ends, or instrumentality,⁴⁰ will be the point of departure in my critique.

Needless to say, this query can also shed light upon the oft-dismissed rationale of the laws, specifically violent laws, and legal regimes. The ultimate objective and promise of laws and politics, at first glance, seem to be, at least in part, ridding humanity of the bloodstained claws of the cruel rulers.⁴¹ But can this premise, that has been widely held,⁴² withstand the

etymological analysis, see M. Aryanpour Kashani, *An Encyclopedia of Indo-European Roots of Farsi Language*, title translated from Farsi (Isfahan, Jahad Daneshgahi, 2005), pp. 468, 467, and 468.

⁴⁰ I must clarify here that what I mean by instrumentality refers indiscriminately to both political and non-political use of violence, violence as *means*. However, a relevant moral question that persists is about the *ends* and whether they are just or unjust. I do not wish to critique violence based on its ends here and this moral issue, although significant, is not at issue for my analysis. This agnostic approach to violence is close to Benjamin's account of violence in his *Critique of Violence*. See, Walter Benjamin, "Critique of Violence," in *Reflections: Essays, Aphorisms, Autobiographical Writings*, Edmund Jeffcott trans., Peter Demetz ed. & intro. (New York, Schocken Books, 1986), pp. 278-279. Clearly, in different social and legal cases, the perpetrator of violence can immediately resort to the inevitable instrumentality of violence—as a means to their self-justified ends. I think that I am not qualified, nor is it necessary, to enter the realm of ends in my critique.

⁴¹ In general, the promise of the Enlightenment, and by the same token, liberal democracy and human rights, has been emancipation from anguish and oppression through *reason*. See Douzinas, *The End*, *supra* note 3, p. 2.

⁴² The specific reason justifying my focus on Hannah Arendt's (and later, as we will see, Walter Benjamin's) theory [of violence] in my argumentation is that she is perhaps one of the few predominant thinkers who argues that violence is *apolitical*. In other words, she tries to disentangle violence from power and believes that "[t]o speak of non-violent power is actually redundant." "Power", she writes, "and violence are opposites; where the one rules absolutely, the other is absent." Hannah Arendt, "On Violence," in *Crisis of the Republic*, (New York, Harcourt, Brace and Co, 1972), p. 155. Also, see generally, Hannah Arendt, *The Promise of Politics*, Jerome Kohn intro. & ed. (New York, Schocken Books, 2005).

test of logic? If not, what is then the point of going through the cumbersome business of creating laws and politics, if violence, after all, is to persist in one form or another, and after all “sovereign is who [definitely] decides on the exception”?⁴³ Raising the question of the instrumentality of violence is not only relevant but indispensable for any legal analysis of violence. The necessity and relevance are axiomatic when it comes to *killing*, the ultimate form of physical violence. The significance of instrumentality of violence in my analysis, in simple terms, is that *if* violence is instrumental and inevitable, it would then be unsurprisingly *natural* for the laws to protect [the use of] violence. In the same vein, politics then ought to be, to an extent, violent. As though politics and laws, perhaps human rights too, are merely a cloak under which humans channel their intrinsic violence. To put it differently, if one succeeds in upholding the instrumentality of violence as a logical proposition, any *general* critique of the laws for allowing the use of violence would be more or less futile, or a bottomless quest. Specifically, when it comes to the interests and security of an individual, or a nation, or a political system, violence can become, literally, a vital means.⁴⁴ It then

⁴³ Carl Schmitt has discussed the role of sovereign in deciding on the exception and also the fact that ‘exception’ itself can only justify sovereignty. In his book, *Political Theology*, he writes “it is precisely the exception that makes relevant the subject of sovereignty, that is the whole question of sovereignty.” See, p. 6. The ‘miracle’ of sovereignty, therefore, can always decide and justify the use of violence. See, Carl Schmitt, “definition of Sovereignty,” in *Political Theology, Four Chapters on the Concept of Sovereignty*, George Schwab trans., (Chicago, University of Chicago Press, 2005), p. 5-16. Moreover, Jacques Derrida, invoking Schmitt, maintain in his lectures on the Death Penalty that “Sovereignty is the right, the power authorized to decide what is exceptional, what is the exception.” Derrida, *The Death Penalty*, *supra* note 4, § 129. In the case of capital punishment, for instance, the decision to take away an individual’s life (exception) is made by the sovereign, not based on *general* criteria, but specifically in accordance with *exceptional* rules. Sovereign—and its existence—is exceptional, therefore sovereign decisions, too, are exceptional. Elsewhere, Derrida reiterates that, according to Schmitt, “the origin of the law, like the origin of the reason, cannot be legal or rational, and this is the source of authority, its always exceptional source.” Derrida, *The Death Penalty*, *supra* note 4, § 140.

⁴⁴ I am not here referring to self-defence in its legal notion here. The permissibility of violence for self-defence stems from laws of nature, however much of violence that humanity has experienced, and undergoes, falls out of the notion of self-defence. There must be, therefore, other *natural* stimuli or causes that give rise to human aggression. Needless to say, defining security, interests, and so forth in an objective fashion is virtually impossible. It is the business of the sovereign to make such decisions. See: Schmitt, *Sovereignty*, *supra* note 43, pp. 5-16.

requires laws, violent laws, to overcome existential needs. This presumption, however, goes partially against my understanding of violence. It also disturbs my pacifist intellect. In any event, it would be too naïve and simplistic to speak of violence as though *hanging* and *nail clipping* are equally violent, not to mention, *inter alia*, the difference in the level of their instrumentality. Treating the complex issue of violence thus requires more elaborate approaches.

B. On Hierarchy

One way of breaking down the concept of violence is to conceive of it in two realms, namely private and public. Before I embark upon this analysis, I feel obliged to say that such dichotomies, *e.g.* public and private, male and female, national and international, etc., are in fact mere abstractions. On the one hand, they only simplify concepts, with the objective of preparing them for ‘academic entertainment’. On the other hand, such self-made categories are in fact how some of us perceive reality, a highly subjective interpretation of reality.⁴⁵ The reality, however, is not reducible to such vague binaries. But for the sake of furthering an argument, and gaining some academic sensibility, let us conservatively assume that this dichotomy is partially reflective of some realities. Even after doing so, after accepting that such duality somehow exists, even a modest degree of criticality indicates that the private and public realms, for instance, constantly flow into one another.⁴⁶ The confluence between

⁴⁵ This notion of dichotomy can also be expounded by referring to the Schmitt’s perception of sovereign. He argues that sovereign is a borderline concept. It can also be argued that law and politics have the same. The creation of various realms, such as private and public, is a product of the sovereign power, who decides about such exceptions. See generally, Schmitt, *Sovereignty*, *supra* note 43, pp. 5-7.

⁴⁶ For an interesting critique of the distinction between the public and the private in law, see: Gerald Turkel, “The Public/Private Distinction: Approaches to the Critique of Legal Ideology,” (1988) 22(4) *Law and Society Review* 801.

the two realms is virtually unquestionable. Nonetheless, this categorization, albeit ambiguous, has a minimal benefit for my argument. Its advantage is that it can facilitate my contextualization of various forms of violence. In other words, this distinction, which is not at issue per se, functions as a point of departure in my analysis. Once I have fully advanced my argument, if we look back, this point of departure will have faded away.⁴⁷

“According to Greek thought”, Hannah Arendt writes in her seminal work, *The Human Condition*, “the human capacity for political organization is not only different from but stands in direct opposition to the natural association whose centre is the home (*oikia*) and the family”.⁴⁸ Whether we accept that humans have two opposite capacities or not, there is little doubt that the institutionalization of power, materialization of this *capacity for political organization*, influenced the power dynamics in the home. But having read this proposition, one must immediately react and question Arendt’s overgeneralization. To speak of ‘the human capacity’, only within such a narrow scope of analysis, can perhaps lead to a biased and ill induction.⁴⁹ It can, nevertheless, be argued that the emergence of the city-state, in the

⁴⁷ Hannah Arendt, with a seemingly deep conviction in this divide, attempts to explain the difficulty in drawing the line between the public and the private spheres by invoking a modern framework, i.e. the social realm. “[T]he social realm”, she writes, “which is neither private nor public, strictly speaking, is a relatively new phenomenon whose origin coincided with the emergence of the modern age and which found its political form in the nation-state”. Arendt, *the Human Condition*, *supra* note 37, p. 28. It is however somehow difficult to accept that mankind evolved into a socio-political being just after 1648, and the *Westfälischer Friede*. I am, however, more inclined to believe that these categorizations, specifications, and exceptions, as I noted earlier, are products of an extra-political power, the *sovereign* who decides such exceptions. See generally, Schmitt, *Sovereignty*, *supra* note 43.

⁴⁸ Arendt, *the Human Condition*, *supra* note 37, p. 24.

⁴⁹ This Occidentalism, however, is not my particular concern here. A cursory look at the history of the Orient would, to say the least, bring some degree of humility to anyone claiming to speak on behalf of humanity. For instance, at least contemporaneous with the first city-states in Ancient Greece, somewhere in the heart of Zagros Mountains, perhaps a millennium BCE, the Median Empire had already founded a rather complex political entity. Their capital city, *Ecbatana*, was home to a parliament-like assembly, wherein the Emperor was appointed. See, <http://www.iranicaonline.org/articles/ecbatana>. Consequently, a non-occidental version of politics—which has been inextricably entangled with the traditions of urbanization—emerged and took a unique path, evolving into a somewhat unfathomable phenomenon for the mainstream Western thought. The uniqueness of such polity, and the profound connection between urban planning and politics, are exquisitely reified in *Naqsh-e Jahan Square* in Isfahan. This

socio-political context of Ancient Greece, as a separate political entity (the *polis*) shrank the private sphere.⁵⁰ Based on the said dichotomy, one can therefore enumerate a long list of distinctions between the household and the public spheres. Of all the characterizations, “the distinctive trait of the household sphere”, Arendt argues, “was that in it men lived together because they were driven by their wants and needs”.⁵¹ In other words, the formation of the *oikos* was out of a collective need to overcome needs. Evolutionarily speaking, and with regard to the basic needs of species, including primates, one of the natural functions of the woman is to give birth. This function has not been freely chosen, but determined by the laws of nature in order to preserve the infrequent, and of course frail, chain of life. Reproduction, in other words, is where the alphabet of life lies. Such functions mirror natural exigencies of life, wherein profound knowledge of various social, legal, and political phenomena lies.⁵²

architectural fruit of the Iranian socio-political thought is *sui generis* precisely for juxtaposing various institutions of socio-politics in one common space. This clearly demonstrates how inextricable such institutions, in Iranian perception of politics, are. The *Naqsh-e Jahan Square* is perhaps a materialization of a different way of thinking. The Square accommodates *Ali Qapu Palace* (representing political power), *Sheikh Lotfollah Mosque*, where social gatherings and rituals took place (referring to the social aspect of life), *Shah Mosque* (wherein Friday Prayers took place—a symbol of spirituality and divinity), and *the Isfahan Bazaar* (where people dealt with mundane issues and worldly concerns). The symbolic nexus among those elements is fascinating. The power dynamics in, for example, *Ali Qapu Palace* and *Sheikh Lotfollah Mosque*, mirroring one another, are to be harmonized and balanced through a constant connection between the two institutions. See, Narges Aghabozorg, Heshmatollah Motedayen, “Intellectual Origins of Naqsh-e Jahan Square,” title trans. by myself from Farsi, (2015) (33) *Nazar*, pp. 23-44.

⁵⁰ Arendt, *The Human Condition*, *supra* note 37, p. 29; however, it must be noted that this observation is not invariably reflective of all communities and cultures. The opposite is true among some, for instance, non-western and indigenous socio-political organizations, wherein the family is extended to the community and to the nation.

⁵¹ Arendt, *The Human Condition*, *supra* note 37, p.30

⁵² Life exigencies, stemming from needs, begetting fear and insecurities, have determined and shaped a wide range of social, historical, and legal phenomena. A brief, yet deep, etymological analysis can help us fathom the profundity of this claim. In Farsi, for instance, the word *Zan* (=woman) connotes fertility and reproduction, relating to a social role that has been dictated by nature. In modern English, the terms queen and quean are derived from the same origin as *Zan*. Similarly, the term *daughter*, which is common in almost all European languages, with little morphological variations—stemming from a proto Indo-European origin—etymologically speaking, means a person who milks, a ‘*milker*’, if you will. The word *Pedar* in Farsi (from which Father, in English, has stemmed), too, falls within this logic. *Pedar* connotes protecting the family and literally means ‘vigil-keeper’, an ancient social role that has been widely enshrined in various legal systems, about which I will talk in the second chapter. In modern English, the term *Power* (in Gothic *Faths*), I am convinced, shares the same origin with that of *Pedar* (=Father). Quite mysteriously, with regard to capital punishment, an equivalent term for gallows in Armenian (which is one of the least transformed

“Natural community in the household therefore”, Arendt writes, “was born of necessity”.⁵³

The response to such biological necessities, especially reproductive need,⁵⁴ coincided with the very first human interactions which, as I will demonstrate, founded the bedrock of *bio-politics*.⁵⁵

languages with an Indo-European origin), is Pat /pät/. Another quite spellbinding parallel is found in the term *Chalipa*, meaning (the) cross, which was used, since perhaps 5000 years ago, for both crucifixion and the design of the tombs (that were carved in the rocks) for Ancient Iranian Kings. The ‘Pa’ in *Chalipa*, I believe, share its etymological origin with that of *Pat* in Armenian (English: gallows), and Power and Father in English. This term, *Pa* in *Chalipa*, is also found in today’s Farsi in many words such as *Padeshah* (English: ruler or king). For an analysis of the term *Pat* in Armenian and Farsi see, Edik Mehrabian, “On the Common Term of ‘Pat’ in Armenian and Iranian Languages,” title translated from Farsi, (2012) 115 *Hooys Social and Cultural Bi-Weekly* 11. For *Chalipa*, see Mehrabian, *Pat*, note 52, p. 13. For an etymological analysis of *Pedar* and Power see respectively, M. Aryanpour Kashani, *An Encyclopedia of Indo-European Roots of Farsi Language*, title translated from Farsi, (Isfahan, Jahad Daneshgahi, 2005), p. 158 and 149. For *Doxtar* (=daughter), pp. 268 and 289; *Zan*, pp. 326 and 327. This mysterious and enlightening analysis clearly demonstrates that to what extent the biological role of fatherhood, the urge for power and dominance, and capital punishment are all interrelated and in a sense inseparable. This would be yet another testament to my argument, although it begs further scrutiny. The window of etymological linguistics can take me far back in the man’s history, but perhaps not quite far enough to the pre-verbal man, wherein, I am compelled, the origins of the death penalty lie.

⁵³ Arendt, *The Human Condition*, *supra* note 37, p. 30.

⁵⁴ It is not quite clear whether *Homo sapiens* have all been fully aware of the biological facts pertaining to copulation. The causal relationship between copulation and reproduction, to some tribes, up to the mid-twentieth century, was virtually unknown. See Reay Tannahill, *Sex in History* (London, Hamish Hamilton, 1980), p. 40. This, nonetheless, does not weaken my argument, since what is beyond doubt is that the act of copulation, whether for reproduction or erotic reward, has happened quite frequently among all primates, who have survived to date.

⁵⁵ This term was first introduced and elaborated in mid 70s, in the first volume of *The History of Sexuality*, wherein Michel Foucault discussed ‘bio-politics of the population’. In *The Will to Knowledge*, Part five: Right of Death and Power over Life, Foucault unfolds some aspects of this concept. Biopolitics, he argues, is “[a] power whose highest function is perhaps no longer to kill, but to invest life through and through”. See Michel Foucault, *The History of Sexuality*, (New York, Pantheon Books, 1978), p. 139. This is one of the distinctions between my argument and Foucault’s theory of biopolitics, or rather, I think I have a different reading from biopolitics. I think the power that sustains and regulates life does also kill, if necessary. My interpretation is manifestly reified, also supported, in the graphic novel, *Gallows Erected in the Bedroom*. Moreover, like Giorgio Agamben, I believe that biopolitics and sovereign power both have one origin. See Andrew Norris *et al*, “Bare Sovereignty: Homo Sacer and the Insistence of Law,” in *Politics, Metaphysics, and Death: Essay’s on Giorgio Agamben’s Homo Sacer*, Andrew Norris ed. (Durham, Duke University Press, 2005), p. 49; In other words, I am not entirely convinced that life is always exposed to power, as Michel Foucault believes, contrarily, I think that power stems from life itself and its exigencies. Additionally, as I will expound, the reason why biopolitics gives rise to violence, is *structural*. Biopolitics, for instance, legitimates killing, *not* only, as Agamben argues (in expounding the concept of *Homo Sacer*), resorting to a boundless state of exception [to law]. Unlike Agamben, whose critique finds its most archaic origins in—again—Ancient Greece, my argument, I hope, would explore farther back. Sovereign’s exceptionalism might not fully explain why biopolitics begets violence, that can even overwhelm the very end for which biopolitics is formed.

Of all the human behaviours, copulation is of particular interest to my analysis. The reasons include the following: for one, copulation satisfies a need and involves two humans, and for another, it is perhaps *the most perennial*. Copulation itself is, I believe, the *primordium* of the political—something that I will expound on in my argumentation shortly. The *transhistoricality* of sex turns it into a rich subject-matter, which merits indefinite contemplation, and perhaps a Freud-like obsession. As though, copulation, this most archaic behaviour of man, is the accumulation of humanity's most innate traits. Similar to a window, which opens to the time immemorial, copulation can awaken my eyes to the kind of truth about humanity that is otherwise inaccessible to me. This is, nonetheless, quite challenging. I am aware that the realm of speculation of this kind is entirely susceptible to erroneous understandings and illegitimate generalizations. Steering the helm amid the vast and baffling ocean of yore is only possible if I tie my look to the beacon of truth. Therefore, advancing my argument, to err on the side of caution, I will invoke the least controversial facts pertaining to copulation; the facts that despite their simplicity will fortify the bases of my thesis.

Perhaps no other human activity, involving two parties, is as perennial as the act of copulation. On the one hand, it is beyond argument that any retroactive speculation about the life of human species, and its evolution, whether individually or collectively, would at some point intersect with copulation. Mating, on the other hand, is believed to have virtually always been accompanied by aggression. In fact, there has been a strong correlation between reproductive success and aggression. This correlation, supported by numerous studies, was

tested in a specific cultural context,⁵⁶ where the data clearly indicated that “[w]arriors who raided more often in youth had more wives and children when they became elders”.⁵⁷ Beyond the specificity of such studies, sexual coercion is commonplace among a great number of species. Its difference among *e.g.* humans or dolphins is not a matter of kind, but degree. What specifically interests me, however, above all other characterizations of sex, is the physical morphology of this primordial activity. The copulatory structure of mankind was, for millions of years, literally hierarchical. In order for the male human to have access to the female some sort of physical superiority was needed. Although the hierarchical dynamic involved physical violence, or to put it simply, domination in the act of copulation connoted and necessitated aggression, what interests me is the copulatory posture itself.

I must explain this question further: Why copulation, did not happen, morphologically speaking, in the same fashion as it does for the bipedal man? To answer this question, I have to condense a few million years in a few words here. For millions of years, the mating posture (for humans) was quite significantly *limited* compared to what we experience today. “In the usual primate position”, Reay Tannahill in her book *Sex in History* writes, “the female presented her rear to the male and intercourse is brief, crude, and purposeful”.⁵⁸ The man

⁵⁶ Among the Nyangatom who are nomadic agro-pastoralists, with a population of ~30,000, inhabiting a remote region along the southern border of Ethiopia and South Sudan.

⁵⁷ Luke Glowacki, Richard Wrangham, “Warfare and Reproductive Success in a Tribal Population,” (2015) 112(2) *Proceedings of the National Academy of Sciences of the United States of America*, pp. 348-53. Even today, the correlation between homicide and sex, in many contexts, is self-evident. See, for instance, Margo Wilson, Martin Daly, Antonletta Daniele, “Femicide: The Killing of Spouse and Children,” (1995) 21 *Aggressive Behavior*, pp. 275–291; also in law: Adrian Howe, “‘Red mist’ homicide: Sexual Infidelity and the English law of Murder” (glossing Titus Andronicus) (2013) 33(3), *Legal Studies* 407. The current and existing relationship between homicide and sex, although it does not directly fall within my argument, is itself proof of the claim that human copulation has been widely entangled with aggression in days of yore.

⁵⁸ Reay Tannahill, *Sex in History*, *supra* note 54, p. 16.

would approach the woman from the rear, usually would use aggression to secure the female human, and would then engage in sex. The man had no other choice but to exercise physical, and of course hierarchical, power over the woman in order to copulate. The importance of this behaviour becomes clear once we connect this behaviour to its characterizations which I enumerated earlier.⁵⁹ Therefore, it would not be an irrational claim to say that man's life and his survival became possible only through an act of aggression against another member of its own specie.

One might argue that this account of violence is nothing new or different than what, for instance, Walter Benjamin, in his *Critique of Violence*, calls 'divine violence',⁶⁰ or to go back to *The Human Condition*, wherein Arendt following Aristotle, says:

"[F]orce and violence are justified in the [private] sphere because they are the only means to master necessity—for instance, by ruling over slaves—and to become free. Because all human beings are subject to necessity, they are entitled to violence toward others; violence is the prepolitical act of liberating oneself from the necessities of life for the freedom of the world."⁶¹

The difference between my understanding of [this kind of] violence and that of Arendt lies precisely in, what I believe is, the implication of such kind of violence—of which I think Arendt and others have been, whether deliberately or otherwise, somewhat dismissive. The

⁵⁹ Those traits, in short, include frequency, primordality, physicality, and inevitability of copulation.

⁶⁰ Benjamin's choice of vocabulary, speaking of [non-political] violence, is noteworthy. In short, he suggests a divide between two kinds of violence, namely mythical and divine. The former refers to political and legal violence. "The mythical manifestation of immediate violence", he argues, "shows itself fundamentally identical with all legal violence". He then attempts to explore the relationship between political violence and the other kind of violence, which he names 'divine' violence. He writes: "if mythical violence is lawmaking, divine violence is law destroying." He even conceives of "mythical violence in its archetypal form" as "a mere manifestation of gods". This curious choice of terminology highlights a partial overlap between my argumentation and Benjamin's. However, as I will argue, my thesis might diverge from Benjamin's dichotomist categorization towards a unitary conceptualization. See, Walter Benjamin, *Critique of Violence*, *supra* note 40, pp. 294-298.

⁶¹ Hannah Arendt, *The Human Condition*, *supra* note 37, p. 31

impact of this behaviour, that cannot be fully explored and examined in any scholarly work, is immense and ubiquitously manifest in all spheres of life. In previous lines, I did, somewhat cursorily, explain this a-few-million-year-old behaviour,⁶² in a few words; however, I cannot do the same with its unspeakable and omnipresent impact. To assume that this transhistorical and inevitable physical behaviour must have an impact on humans' mind is simply a logical proposition and a defensible predicate. In other words, it would be too naïve to think that such a frequent behaviour has had no influence whatsoever on who we are and what we do today. The posture of mating was once the very site from which the notion of *hierarchy* originated. In the long course of human evolution, this original and rather crude *hierarchy* permeated human psyche and went well beyond the realm of physicality.⁶³ Throughout the ages, the psychic impact has hitherto been transmitted in a transgenerational fashion.

The impact, in short and simple terms, is a psychic attribute which involves an irrepressible urge to create hierarchies, as well as a formidable faculty to exercise

⁶² I must add that the characterizations that I have enumerated for copulation might not be exclusive and particular to sex. However, copulation is an example, perhaps the best example, where all those traits intersect. Other human behaviours, such as hunting, involve some of those traits. Hunting, nevertheless, is never as old as copulation, nor does it engage another human in a physically-hierarchical form of violence.

⁶³ The dichotomy of physics and metaphysics, matter and energy, and so forth has been a popular subject matter since the early days of human civilization. The relationship between the two has also been but a complex and mysterious one. From Plato's Allegory of Cave to Friedrich Nietzsche's *Die Geburt der Tragödie aus dem Geiste der Musik* (English: *The Birth of Tragedy from the Spirit of Music*) virtually all philosophers have attempted to fathom the relationship between physics and metaphysics. Hegel, for instance, explaining this relationship writes: "human law proceeds in its living process from the divine, the law valid on earth from that of the nether world, the conscious from the unconscious, mediation from immediacy—and equally returns whence it came. The power of the nether world, on the other hand, has its actual existence on earth; through consciousness, it becomes existence and actuality." (§ 276-7) See Robert Stern, *Routledge Philosophical Guidebook to: Hegel and the Phenomenology of Spirit*, (New York, Routledge, 2002), p. 138. My understanding of the relationship between physics and metaphysics, conscious and unconscious, is somewhat different from that of Hegel's. See Omid B. Milani, "On the Restless and Arrested Realities of Human Rights," in *Art and Human Rights*, *supra* note 19, pp. 140-151.

hierarchical power. This psychic attribute, manifested in hierarchies, also encompasses a primordial tendency to submit to hierarchical structures. This overarching impact, relating to a dimension of reality that falls beyond our conscious self,⁶⁴ is a function of humanity's mind, a psychic mould if you will, which for lack of a better term, I will henceforth call, *governmentality*.⁶⁵ In other words, this psychic impact is engraved on the unconscious of humanity, on the invisible part of the iceberg. Explicating this psychic pattern by the means of language is indeed an insurmountable task. Verbalizing the pre-verbal, at its best, would

⁶⁴ The unconscious is, I hope, no longer a mere hypothetical category that should be argued for. It is indeed a matter of scientific fact. However, if doubt persists, see: C. G. Jung, and Richard Francis Carrington Hull, *On the Psychology of the Unconscious* (London, Routledge and K. Paul. Print, 1966), Collected Works of C.G. Jung; V. 7, Two Essays on Analytical Psychology. Also, as Jung eloquently writes, "Whoever denies the existence of the unconscious is in fact assuming that our present knowledge of the psyche is total. And this belief is clearly just as false as the assumption that we know all there is to be known about the natural universe. Our psyche is part of nature, and its enigma is as limitless. Thus, we cannot define either the psyche or nature. We can merely state what we believe them to be and describe, as best we can, how they function. Quite apart, therefore, from the evidence that medical research has accumulated, there are strong grounds of logic for rejecting statements like "There is no unconscious." Those who say such things merely express an age-old "misonicism"—a fear of the new and the unknown. See, C. G. Jung, *Man and his Symbols* (New York, Anchor Press, 1964), p. 23.

⁶⁵ I cannot deny that I have been inspired and influenced by Foucault's conceptualization of *governmentality* and that I am borrowing his terminology. This, however, will not be detrimental to my argumentation's originality; on the contrary, it enriches my thesis, since it is in harmony with both my epistemology and also Foucault's assertion. If Foucault mastered expounding the complex issue of *governmentality* based on the very physical expressions of it, *e.g.*, within the formal structures of time, space, *hierarchy*, *etc.*, I might have only managed to tread my toes in the immense ocean of *governmentality*, in its non-physical—and psychic—existence. Foucault's theory was the very window that opened my eyes to a larger concept. The physical manifestations of *governmentality*—what is largely at issue for Foucault—were to me signs of a more profound and uncanny existence. In fact, I think Foucault himself, at least partially, was aware of the fact that government is preoccupied with some non-physical realities, or in particular to provide a full justification for the existence of government (and sovereign), he thought of a concern for *truth*, as Colin Gordon writes, "Foucault goes on to develop (in the first lecture of 1980 course), the idea that government in Western cultures carries with it a concern with truth which exceeds the merely utilitarian relationship...[E]xtending the idea that Sovereignty is seldom grounded on pure violence alone, Foucault advances the thesis of a regular, though variously actualized interdependence between the 'government of men' and what he called the 'manifestation of truth'... [g]overnment in the name of the truth." See, Colin Gordon, "Governmental Rationality: An Introduction," in *The Foucault Effect: Studies in Governmentality*, Graham Burchell *et al.* ed. (Chicago, The University of Chicago Press, 1991), p.8. Nonetheless, I should differ on Foucault's notion of *governmentality* as a phenomenon that emerged in the eighteenth century. The reason is that the sequence of logical propositions, based on which Foucault asserts his theory, is the reverse in my argument. I do not think that *governmentality* necessarily appeared in the eighteenth century, although I agree that it reached its highest formal manifestation in modern era. The primal urge and capacity for *governmentality* has always been within humans. I simply think that life itself shapes our political expressions. Foucault, however, starts from *governmentality* and then defines life; I conversely commence from life and then understand politics. See generally Michel Foucault, "Governmentality," in *The Foucault Effect: Studies in Governmentality*, Graham Burchell *et al.* ed. (Chicago, The University of Chicago Press, 1991), pp. 87-104.

be an interpretation that illuminates the subject-matter just insofar as it veils the reality. To put it differently, language—specifically academic literature—belongs entirely to the realm of conscious, therefore as soon as I begin to articulate any explanation, I will have already left the realm of unconscious. Speaking of the unspeakable can therefore be well counter-productive. This is even more challenging in the discipline of law, whose pillars mainly rest upon, *inter alia*, the corpus of all-too-textual works. This is a dilemmatic struggle with which I have been grappling throughout my entire query. I will, nonetheless, attempt to encode the complex meanings, in the guise of words, hoping that the sophisticated will decipher my linguistic encryption. It is then, in part, upon the reader to liberate the meanings from the prison of vocabularies. However, this cumbersome onus, the grueling task of exploring the underlying meanings of my argument, in a deep and proper fashion, is after all, for significant reasons,⁶⁶ left to the arts.

One way to expound on *governmentality* is to perceive it through observing its physical manifestations. This approach would in principle resemble Carl Gustav Jung's theory of the collective unconscious and the archetypes.⁶⁷ Throughout years of clinical and empirical research, along with extensive studies on various cultures, religions, symbols, etc.,⁶⁸ C. G. Jung suggested that in order to explain the commonalities among human

⁶⁶ See *Epistemological and Methodological Considerations*, pp. 11-22; also see Milani, *Art and Human Rights*, *supra* note 19.

⁶⁷ See generally, C. G. Jung, Richard Francis Carrington Hull, and Gerhard Adler, *The Archetypes and the Collective Unconscious*, 2nd ed. (Princeton, New Jersey, Princeton University Press, 1969), pp. 1-73.

⁶⁸ The thoroughness of Jung's work, that enriches his theory, is astounding. Perhaps no other figure in the twentieth century, can stand shoulder by shoulder, in this regard, next to Jung. One of his most prominent works, on which he worked—according to his friend and colleague John Freeman (see *Introduction*), up to literally some ten days before his terminal illness—is a chapter that explores the unconscious. See “Approaching the Unconscious”, in *Man and his Symbols*, *supra* note 64, pp. 18-103.

behaviours, there must exist an 'impersonal' reality,⁶⁹ something that is 'identical' among all humans,⁷⁰ that shapes our material behaviours.⁷¹ He named it the Collective Unconscious or "[t]he deposit of all human experience right back to its remotest beginnings... a living system... an *a priori* historical condition".⁷² In *the Archetypes and the Collective Unconscious*, wherein perhaps the clearest assertion of his argument appears, Jung writes:

"My thesis, then, is as follows: In addition to our immediate consciousness, which is of a thoroughly personal nature and which we believe to be the only empirical psyche (even if we take on the impersonal unconscious as an appendix), there exists a second psychic system of a collective, universal, and impersonal nature which is identical in all individuals. This collective unconscious does not develop individually but is inherited. It consists of pre-existent forms, the archetypes, which can only become conscious secondarily and which can give definite form to certain psychic contents."⁷³

The collective unconscious, therefore, based on Jung's theory, is filled with its content, *i.e.* archetypes. Archetypes are *primordial images*⁷⁴ or *templates*⁷⁵ that form our behaviours. *Governmentality*, too, I think, is a primordial image, a mould, an aptitude if you will, that we

⁶⁹ See C. G. Jung, "On the Psychology of the Unconscious," in *Collected Works*, vol. 7. (London, Routledge & Kegan Paul; Princeton, Princeton University Press, 1917), p. 66; Also, "On the nature of the psyche," In *Collected works*, vol. 8. (Routledge & Kegan Paul, Princeton: Princeton University Press, 1947), p. 204.

⁷⁰ See C. G. Jung, "Synchronicity: An Acausal Connecting Principle," in *Collected works*, vol. 8. (London, Routledge & Kegan Paul; Princeton, Princeton University Press, 1952), p. 436.

⁷¹ As Jon Mills, a world-renowned Canadian psychologist and philosopher, interprets Jung, "[A]lthough images, symbols, ritualistic behaviours, and so forth developed throughout the slow progression of human civilization, they could not have been simply transmitted cross-generationally or transculturally because they happen everywhere in every society. Cultures that were geographically and temporally segregated from one another, and hence had no communication with each other whatsoever on the human history timeline, nevertheless experienced psychic phenomena that were universal to all people at all times and places, personified by primordial images." Jon Mills, "Jung's Metaphysics," (2013) 5(1) *International Journal of Jungian Studies*, p. 39.

⁷² C. G. Jung, "On the Nature of Psyche," in *the Structure and Dynamics of the Psyche: Collected Works* vol. 8, 2nd ed. (Princeton, Princeton University Press, 1975), § 339.

⁷³ Jung, *the Archetypes*, *supra* note 67, § 90.

⁷⁴ Jung, *the Archetypes*, *supra* note 67, § 118.

⁷⁵ C. G. Jung, "Instinct and the Unconscious," in *Collected Works*, vol. 8. (London: Routledge & Kegan Paul; Princeton: Princeton University Press, 1919) p. 137.

have gained through our evolutionary interaction with nature. As Jung writes, “[E]ndless repetition has engraved these experiences into our psychic constitution... representing merely a possibility of a certain type of...action”.⁷⁶ We should, however, bear in mind that archetypes are not directly perceivable; neither can they be clearly defined. The archetypes, nonetheless, materialize in certain occasions. Physical representations of *governmentality* are commonplace. Wherever one, often involuntarily, submits to a *hierarchy*, or on the contrary, rules within a hierarchical power structure, *governmentality* is reified. Moreover, I believe that in certain occasions, when the most innate qualities of man are exposed, in times that one is overwhelmed by our archaic fear of death, and inundated by our most basic needs for instance the archetype of *governmentality* materializes. Capital punishment is precisely one of those situations,⁷⁷ wherein humanity is stripped down to its most archaic qualities, when the god of *governmentality* is no longer dormant, but raging. In an execution scene, where humanity is *au naturel*, one can clearly see the invisible part of the iceberg. For the sophisticated, the scaffold is an aperture opening towards the repository of our ancestral forms.

⁷⁶ Jung, *the Archetypes*, *supra* note 67, § 99.

⁷⁷ I am convinced that alongside the sanction of death, by the same token, various situations in wartime, unspeakable crimes such as genocide, seemingly-mindless violence of revolutions, wanton aggression of police, and so on and so forth, are all occasions where the archetype of *governmentality* becomes manifest. Violence in those situations, therefore, occurs, at least in part, when man is overwhelmed by the innate archetype of *governmentality*, in a hierarchical form. In this sense, genocide, for instance, is not “a barbarism that erupts [in the course of] historical development [towards modernity]”, but rather a *reminder* of what has been and will always be with us, a functioning pattern from which Auschwitz and other unspeakable aggressions emanate. Such crimes are perhaps a physical expression of a mental pattern, which has been largely overlooked. To prevent ‘another’ Auschwitz, I humbly believe, instead of becoming ‘ever more modern’, we need to look back and deepen our perception of self and nature. No matter how modern we become, the repository of our archaic and ancestral unconscious is always actively functioning and shaping our lived experiences. For a short historical analysis of genocide and ideas of Habermas (and Dahrendorf) regarding modernity and genocide see, Marie Fleming, “Genocide and the Body Politic in the Time of Modernity,” in *The Specter of Genocide: Mass Murder in Historical Perspective* (Cambridge, Cambridge University Press, 2003), p. 99.

Finally, I must mention, in a clear fashion, that *governmentality*, I believe, is a neutral archetypal capacity and inclination, ‘merely a possibility’. Although on many occasions, *governmentality*—its physical expression—correlates with the use of violence, it is not always the case. I will react to this critique shortly but for now let us neglect the exceptions and explore the correlation further. The correlation between *hierarchy*, in its physical fashion, and violence cannot be denied easily. Virtually, wherever a *hierarchy* exists, violence becomes functional in maintaining and perpetuating the structure.⁷⁸ In modern societies, this claim becomes manifest specifically with regard to political violence.⁷⁹ The correlation, however, applies to various contexts, personal, national, or international. I can proceed registering my opinions and resultantly turn my argument into tiresome verbiage, but I shall forgo the delight of writing. Instead, I would leave the burden of this task, as I said earlier, to a perhaps more eloquent mode of expression, through which, I am convinced, the notion of meaning supersedes all reductionist paradigms.

C. Hierarchy in Gallows

In *Gallows Erected in the Bedroom*, I have demonstrated a number of plain and metaphorical hierarchies, *i.e.* situations where I felt and saw manifestations of *governmentality*. It must be noted that *not* all manifestations are clear in the story. More importantly, I must admit that *Gallows*, despite being based on a true story, merely depicts

⁷⁸ For the correlation between politics and violence, see generally Peg Birmingham, “On Violence, Politics, and the Law,” (2010) 24(1) *Journal of Speculative Philosophy*, p. 4.

⁷⁹ For the use of violence in modern politics, specifically in human rights politics, see: Ibrahim J. Gassama, “A World Made of Violence and Misery: Human Rights as a Failed Project of Liberal Internationalism,” (2012) 37(2) *Brook Journal of Int'l Law* 407; and Bertil Duner, “Violence for Human Rights,” (2002) 2(5) *the International Journal of Human Rights* 46.

my subjective engagement with facts. I have, however, tried to interpret the facts in a, hopefully, sincere, perceptive, and insightful way. On various occasions, I could see and feel the correlation—between *governmentality* and violence—quite vividly. As to my subjective interpretation, however, I am only convinced inasmuch as I am open to be rectified. In order to decipher and encode the physical and formal manifestations of an archetype, as Jung said, I had to immerse myself in “active imagination”.⁸⁰ Throughout all stages of the story, I have tried to remain engaged with both imaginative and rational faculties of mine. This was never an easy task. The mighty imagination simply penetrates the life of the artist; day and night, the imagination occupied my dreams, my conscious and unconscious thoughts, not to mention how much rational thinking the whole process demanded.

As difficult as it was, the outcome was satisfying. I humbly think that I have succeeded in depicting and materializing some of the underlying patterns that actively shaped the entire stories. Firstly, the hierarchies that are concealed beneath the thick layer of cultural normality: the parenthood, for instance, functions—from times to time—in a hierarchical fashion, which may simply undermine the purpose of parenting. But what counts, I reiterate, is not the physical visible *hierarchy* itself, but the unconscious *governmentality* that functions as a ‘pattern of behaviour’,⁸¹ when the mere urge to exercise superiority over their daughter overcomes all the natural ends, for which the *hierarchy* is established.⁸² In a more

⁸⁰ Jung, *the Archetypes*, *supra* note 67, § 101.

⁸¹ Jung, *On the Nature of Psyche*, *supra* note 72, § 352.

⁸² Such ends—necessitating a hierarchical structure—can include protection of the child’s best interests through some sort of whether parental or legal guardianship, recognized in international human rights law in, *e.g. the Convention on the Rights of the Child*, 1989, Article 18, that expresses, “[b]oth parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern”. Manifest in the Article’s text is that ‘responsibilities’ are the basis of such guardianship, or formation of

imaginative vein, a metaphorical *hierarchy* is shown in one of the frames, wherein the husband is depicted as a crow and the child wife as a grey jay.⁸³ By virtue of his physical superiority, the crow, can imprison the grey jay, and exercise his possessive power over the smaller bird.⁸⁴ A few visual codes in those frames, I have to admit, remained shrouded even to myself until I finished the entire narrative. Once I returned to the frames, and reflected on the images that I had drawn, I realized that, for instance, where the crow is holding a key, the key may well be a *phallic* symbol [of penis and power].⁸⁵ Perhaps a classic example of a key, as a phallic symbol in a story, can be found in the French folklore fairytale *Barbe bleue*,⁸⁶ wherein the Bluebeard hands a key to his wife and bans her from entering the forbidden room. Capitulated to temptation, she ultimately enters the room and finds Bluebeard's ex-wives murdered. The uncleanable bloodstained key, however, divulges her betrayal to the Bluebeard.

such hierarchies. It is, however, quite difficult to determine and define such responsibilities in an objective fashion, which can cause legal dilemmas.

⁸³ The reason I have chosen these two birds is that they, grey jay and crow, despite belonging to the same family of *corvidae*, share little resemblance with one another. Whether in terms of size, look, or behavior, their differences are apparent. The grey jay, also known as *Whisky Jack* (an anglicization of the Cree *Wisakedjak*) has been selected by the Royal Canadian Geographical Society as Canada's national bird. The differences between the two birds manifest the complex relationship between them; they are alien to one another just insofar as they are, literally speaking, familiar. See <https://www.canadiangeographic.ca/article/meet-our-national-bird-gray-jay>

⁸⁴ These metaphorical forms are [my interpretation of] images that I saw in a series of dreams, while the graphic novella was in progress.

⁸⁵ In Freudian psychoanalysis, a key is virtually dogmatically a phallic symbol, however, as Jung in *Man and His Symbols* writes, "A key in a lock may be a sexual symbol—but not invariably... [N]o individual symbolic image", he continues, "can be said to have a dogmatically fixed generalized meaning." Jung, *Approaching the Unconscious*, *supra* note 64, p. 30; I am, nevertheless, inclined to decipher the key as a phallic symbol in my drawing and for this interpretation I have two reasons: the context, first of all, implies a powerful sexual dimension which must be taken into consideration in decoding the symbols; on the other hand, the fact that the key coincides/correlates with another visual element, *i.e.* the flower, that may well be translated sexually, convinces me that the key is a phallic symbol.

⁸⁶ Charles Perrault, "Barbe bleue" (English: Bluebeard), in *Histoires ou contes du temps passé* (Paris, 1697).



Gustave Doré, *Bluebeard*, (illustration, 1862, Paris)

JUNE 23, 1900] THE SPHERE 693

FATIMA, THE LAST OF BLUEBEARD'S WIVES

Painted by C. E. Hallé and Exhibited in the New Gallery.



The immortal story of Bluebeard as we know it was first told by Charles Perrault in his "Contes," 1697. Bluebeard has been identified with many historical figures, including Henry VIII. and the Marquis de Laval, who murdered six of his seven wives, and was ultimately strangled in 1440. The particular incident which Mr. Hallé has selected is that of Fatima opening the door of the secret chamber and seeing the bodies of Bluebeard's former wives. She drops the key, and cannot obliterate the stain of blood on it. She would have shared the same fate as her predecessors but for the arrival of her brothers.

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I have been reluctant to mention the name of the child in *Gallows*. The reason I have been loath to do so, for her and all other characters in the narrative, was to remove any barrier for the audience to relate to the personages of the story. Having come across this painting, however, I am compelled that I should disclose the child's name. Her name was, surprisingly, Fatima.

Charles Edward Hallé, *Fatima, The Last of Bluebeard's Wives* (1900) 1(22), *The Sphere*, p. 693.

Also, the flower, initially held by the grey jay, which is ‘taken away’, and has fallen out of the cage, may be interpreted as a sign of virginity, or more precisely, her defloration. The flower once the crow, supposedly, consummated the marriage, is lost, and the *key* to decode this message, disguised in pictographic elements, is literally in the crow’s hand. Based on my perception, the underlying dynamics of the first marriage were, to a large extent, influenced by unconscious sexual desires. The grim reality of child marriage and the pathos-laden situations pertaining to this phenomenon, however, can only be grasped once our imagination is awakened. In those frames, I hope that I have evoked an imaginative response in the audience. It is noteworthy that beyond specific visual elements, *Gallows* can also be read in a broad thematic manner. In this vein, a more general dramatic interpretation of *Gallows* can refer to the bedroom itself. The narrative indicates that, in many occasions, aggression and sexual elements, *e.g.* bedroom and the bed, do coincide. Physical abuse, battering the girl, and marital rape all take place in the bedroom, wherein the mysterious relationship between the need for copulation and violence is repeatedly materialized. The bedroom is the very site wherein the primordial god of *governmentality* reifies itself in the form of violence, where the man, who is overwhelmed by his unconscious, exercises lustful hierarchical power over the wife. To put it differently, in the bedroom, or the backyard for men of *Gallows*, a raging archetype is unleashed.⁸⁷ Once the external constraints are lifted, it is impossible to harness the omnipotent.⁸⁸ Another violent *hierarchy* depicted in *Gallows*, lies

⁸⁷ In one of the scenes, where the girl is battered by the first husband, the snake-like belt, brandished by the man, suggests a similar concept. One can also think of the belt as a phallic symbol, especially due to the fact that the buckle—perhaps resembling the head of a male sexual organ—is not in the man’s grip, but used to smite the girl.

⁸⁸ This can perhaps partially explain why the level of violence in the absence of external restrictions is typically much higher. Constraints of this kind can appear in various religious, traditional, cultural, and legal forms. The latter, I believe, is the most externally-imposed proscription. A classic example of this kind of violence can be found in the abusive language of some Iranians on social media against football-related celebrities. In 2013, for instance, the

in the *gaze* of people, in their look of censure. Obviously enough, when the girl, after her divorce, finds herself this time in the captivity of her own town, she immediately begins to suffer from the stigma of divorce. This 'hierarchical observation',⁸⁹ that attempts to 'correct' her behaviour by coercing her into a second marriage, is indeed a physical manifestation of *governmentality*. "Each gaze", as Foucault argues, "would form a part of the overall functioning of power".⁹⁰ The town and its people, in other words, function as a disciplinary machine, an observation apparatus if you will, whose "[g]aze is alert everywhere".⁹¹ Contemplating on the unbearable judgementality of the town, exacerbated by her loneliness, and accompanied by her child-like frailty, implanted but one image in my mind: Edward Munch's masterpiece, *Der Schrei der Natur* (English: *The Scream of Nature*). In *The Scream*—which is its popularly-used title—Edward depicts himself, after loss of his mother and sister, who both died from tuberculosis, when he was a child, at the age of five and thirteen,

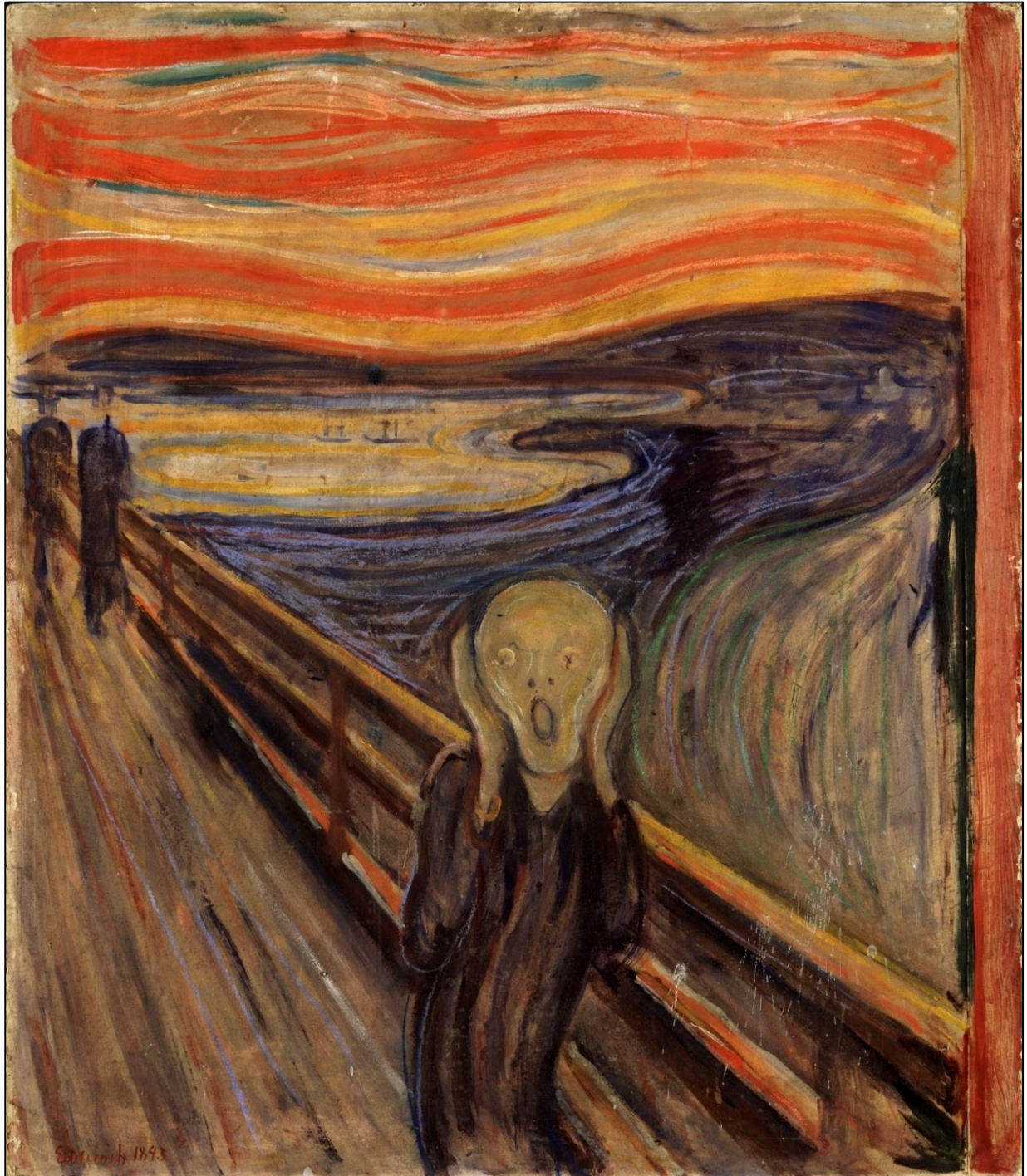
Brazilian supermodel, who conducted the FIFA 2014 World Cup Draw, was outrageously attacked by tens of thousands of wrathful comments posted on her Facebook page. She, consequently, had to deactivate her Facebook account. Another example is that of Lionel Messi, the Argentine football phenomenon, who was insulted by thousands of Iranians after scoring a last-minute goal against Iran in the 2014 World Cup, in Belo Horizonte, Brazil. These instances are particularly interesting because they are crossroads of almost all-that-is-forbidden in Iran. Football is largely a male-dominated sphere—to the extent that women cannot enter stadiums. The absence of women removes a social restriction, or more precisely, takes away an opportunity for men to redefine themselves and overcome their own violence. The Internet itself is largely censored and controlled by the government. Particularly, access to social networks *e.g.* Facebook, Twitter, etc. is banned. One becomes free (from virtually all state-sponsored limits, social, sexual, and religious mores) once one is online, for instance, on Facebook. Based on this observation, the bedroom in *Gallows* resembles the Internet—in the specific said example. This, however, is neither particular to Iran nor football's hooliganism. I must also add, in fairness, that the abusive words were almost immediately followed by a massive number of apologetic comments. This somewhat bipolar behavior *may* indicate an unconscious reflex, succeeded by a self-corrective reply. See, William Troop, *Iranians share their anger, and apologies, over the World Cup draw in Brazil*, (Public Radio International, December 11, 2013) <<https://www.pri.org/stories/2013-12-11/iranians-share-their-anger-and-apologies-over-world-cup-draw-brazil>>

⁸⁹ See generally Michel Foucault, "Hierarchical Observation," in *Discipline and Punish: the Birth of the Prison*, Alan Sheridan trans., (New York, Vintage Books, 1977), pp. 171-176.

⁹⁰ Foucault, *Discipline and Punish*, *supra* note 89, p. 171.

⁹¹ Foucault, *Discipline and Punish*, *supra* note 89, p. 195.

respectively. Since most of the images in *Gallows* are interpretable doubly, I will further discuss the relevance of this scene and Munch's work to my aesthetic argument in the next chapter.



Edward Munch, *Der Schrei der Natur* (English: *The Scream of Nature*), (1893, oil tempera and pastel on cardboard, National Gallery, Oslo).

Obliterated by her divorce, yet bearing the residual of her unworldly innocence, her mother, as shown in one of the frames, appearing in a hierarchical superior fashion,⁹² bids her to leave the town. Her authoritative gesture of finger pointing depicts blaming and commanding. Her mother's manual gesture resembles, horrifically, that of a tyrant.⁹³ Another physical, yet symbolic, *hierarchy* is depicted in the stature of the second husband. I did, however, exaggerate the difference to reflect the degree to which the couple were incongruous. Nevertheless, based on what I heard from the case lawyers and others involved in the story, their real height difference was not dismissible; the man was, in fact, very tall. But perhaps one of the clearest of all hierarchies in *Gallows*, thanks to Pablo Picasso's unparalleled flair, is depicted where the man, after seemingly coercive intercourse, smoking a cigarette, has callously left the wife in bed, while she conceives of him as a monster. Her imagination, I envisaged, must have been filled with apparitions resembling Picasso's

⁹² The fact that her mother is also impacted by the archetype of *governmentality* clearly demonstrates that *governmentality* is a *collective* psychic attribute, hence agendered. It is not particular to men or women, or any other sexual and gender categories. It is not however to say that its manifestation *might* be found more commonly among, say, heterosexual men. Nonetheless, I am neither willing, nor intellectually at ease, to draw any essentialist association between a sex or a gender category and *governmentality*. This argument will be only secondarily relevant if we simply neglect that the main character in *Gallows*, i.e. the child wife, is herself punished for being possessed by the archetype of *governmentality* and perpetrating violence against the second husband.

⁹³ Many political leaders are famed, or rather notorious, for their hand gestures. From Donald J. Trump to Khomeini, or Adolf Hitler to Bill Clinton, they have all used specific gestures to convey meanings. A vivid image that occurs to me at this moment, is Khomeini's finger-pointing gesture, in a speech he gave in the largest cemetery in Iran, *Behesht-e Zahra* (English: the Paradise of Zahra), upon his return from a fourteen-year long exile. After about fifteen minutes of talking about the cruelty of Shah and reminding people of their rights, in an abrupt change in his tone, pointing his index finger to an 'empty space', he uttered a historic sentence, which cannot be justly translated, but is very similar to: "I will appoint the government, I will punch the government on the mouth, I will appoint the government, with the support of this nation". The sentence was followed by a hysterical response from the audience, getting up on their feet, applauding and chanting. See, *Kohmeini, Behesht-e Zahra Speech*, (February 1, 1979: Tehran), min. 18. <https://www.youtube.com/watch?v=yeWHkEaWoUw> Moreover, in an interesting study, published in a book entitled *The Anatomy of Meaning: Speak, Gesture, and, Composite Utterances*, J. N. Enfield, explains that an overwhelming majority of hand pointing gestures, that are different from direct pointing at objects, are used to refer to abstract concepts. Those gestures, usually pointing at 'empty space', therefor, occur in 'insecure-reference contexts', to evoke a meaning that is not shared with the audience. Can we then say that such manually-coded gestures of finger pointing, in politicians, perhaps stem from some sort of insecurity, lack of meaning, perhaps in an attempt to dictate their illusionary power? See generally, J. N. Enfield, "Hand-pointing," in *The Anatomy of Meaning: Speak, Gesture, and, Composite Utterances* (Cambridge, New York, Cambridge University Press, 2009), pp. 90-110.

masterpiece.⁹⁴ In *Minotaur*, Picasso depicts himself, as a Spaniard, who, in his, at the time multiple and parallel, relationships with girls, self identifies with a Spanish bull.⁹⁵ It is unknown to me what images, impressions, or feelings Picasso has precisely experienced in his personal journey within the deepest layers of his unconscious, however, I can argue that similar, if not identical, images, feelings, or impressions were evoked, at least in the unconscious of the girl, in *Gallows*. Finally, it must be noted that the depiction of a man in a physical *hierarchy*, identical to the copulatory posture of a primitive man, cannot be a mere coincidence in Picasso's work.

Eventually, in the murder scene, which occurs in the bedroom and precisely in the bed, a vivid hierarchical pattern arises. Once again, in that scene, the most invisible side of humanity, albeit momentarily, is materialized. It is then not an accident that the murder takes place right at the site of *hierarchy*, in the *bed*. The man, who sowed the seeds of *hierarchy* in bed, must not be surprised to reap the crime in the same bed. In the occasions of violence of this kind, as I noted earlier, the most concealed parts of mankind's *being* becomes manifest, or humanity strips down to its most innate, if you prefer. The murder scene, wherein she slays the man, is clearly connected to the dynamics of the bedroom,

⁹⁴ Pablo Picasso, *Minotaur Kneeling over Sleeping Girl*, (drypoint on Montval laid paper, 18 June 1933). This piece, along with the rest of a series of prints, named *Man and Beast: the Vollard Suit of Prints*, was temporarily exhibited in 2016 at the National Gallery of Canada, in Ottawa.

⁹⁵ It is crucial to explore Picasso's work in terms of the influence he received from Greek mythology [in Jungian terms archetypes], especially in this series of prints. Martin Ries writes that, "None of the depictions of this man-bull chimera tell a known story; they are more a series of Capricios, with the Minotaur reveling with a sculptor (who looks like Zeus), and his model; approaching a sleeping nude, Picasso's sleeping women are often in the pose of the Vatican's *Sleeping Ariadne*, reclining in a delirious orgy "the first conclusion of the principle of death" - Alfred de Musset." He then concludes: "Monsters are expressions of time out of joint, they are the antithesis of the hero whose weapons are positive powers. Thus the [sleeping woman] (Ariadne?) in *Minotauromachia* surrenders her sword to the Minotaur in suicidal gesture". The phrase sleeping woman is added. See Martin Ries, "Picasso and the Myth of the Minotaur," (1972) 31(2) *Art Journal*, available online at <http://www.martinries.com/article1972-73PP.htm>

depicted in previous frames.⁹⁶ The act of killing emerges as a systematic result of previous occurrences. The murder site, however, is not the only noteworthy reality. Another crucial reality in that scene is pertaining to the fact that she murdered the man while he was fast asleep, perhaps the only occasion where she found herself physically dominant over him. She, perhaps for the first time, finds herself capable of overturning the physical *hierarchy*. As depicted in *Gallows*, she appears over his head and strangles him.⁹⁷ I suggest that it is no surprise that the physical inversion of hierarchies coincides with her resort to the ultimate form of physical violence. The murder scene literally concludes the story and binds all the scattered pieces of the puzzle. It links the key components of my argument that consisted of, I must sincerely admit, rather bizarre juxtapositions of facts and imaginations. Subsequently, capital punishment meted out to the girl is an elegy, an inescapable corollary. The seeds of violence planted in the bedroom ultimately grew into the gallows. The destined punishment did not, as was demonstrated, emerge out of a vacuum, but a series of complex events. I do not, nevertheless, claim that the ultimate sanction originated exclusively from the series of

⁹⁶ This is precisely the opposite of Picasso's *Minotaur*, in terms of the physical appearance.

⁹⁷ The physical features of the murder scene contain a number of references to psychoanalytical realities. For instance, the ancient obsession of man with head in various methods of execution, from stoning to beheading, exhorts an inquisitive mind to question this predilection. The evident vitality of the head may not solely explain this inclination. "Where one says capital punishment for the death penalty", Jacques Derrida says in his fascinating lectures on the Death Penalty, "capital execution is what costs the condemned on his head, literally, or fugitively." Jacques Derrida, *The Death Penalty*, *supra* note 4, p. 41 "The death penalty, capital punishment understood etymologically as directed against the head, the *caput* in Latin", Thomas Dutoit notes reflecting on Derrida's lecture, "is a substitute for the excision, the ablation, of the penis/clitoris. As a substitute, it comes after; it is secondary to castration." "The death penalty, for Freud", he remarks, "is castration; the death penalty is the legal simulacrum of originary violence, vengeance, that itself is excision of the sexual organs, of the organs of sexual *jouissance*." Thomas Dutoit, "Kant's retreat, Hugo's advance, Freud's erection; or, Derrida's Displacements in His Death Penalty Lectures," (2012) 50 *The Southern Journal of Philosophy* Spindel Supplement, pp. 133-134. This observation can illuminate some of the reason behind certain methods of execution in, for instance, sexual contexts. Stoning is, based on a consensus among many prominent Islamic jurists, the proper punishment for the woman, and not the man, who commits adultery. Do such methods of execution stem from unconscious impetuses? Is it plausible to assert that *head* is associated to power, penis, hence a phallic element? These claims can all be scrutinized in-depth in separate studies.

events that I portrayed.⁹⁸ Moreover, I do not mean to suggest any causality among the occurrences in the narrative. *Gallows* is the depiction of my subjective take, a fraction of reality, perceived within my all-too-limited means. Nevertheless, *Gallows* portrays a chain of events which together nourished the seeds of execution that were, mainly but not solely, planted in the bedroom. Most importantly, the story explores, and hopefully unveils, the nexus between the hierarchical patterns of sexual behaviour—stemming from *governmentality*—and the use of violence by making a case of murder and the resultant sanction.

Throughout the narrative, whether in an explicit fashion or covertly, one can *see* the power dynamics that ultimately prescribed and legitimized the act of killing by the State, whose first and foremost function is precisely to maintain such power dynamics.⁹⁹ Nonetheless, it is worth noting that *hierarchy* does not necessarily equate to violence. Let me be clear: *hierarchy* is never the sole cause of violence. Violence, however, almost always transpires within—physical or non-physical—hierarchies. Predominant theoreticians of legal and political violence, such as Arendt and Benjamin, who attempted to formulate a remedy for violence,¹⁰⁰ encountered inconsistencies in their propositions, which I think

⁹⁸ Clearly, the role of religion, legal system, and so forth, each belonging to different levels of critique, is undeniable. Perhaps a fair trial would have changed the entire outcome of the process, or if she was provided with better social care, she would have never murdered the man. Although these observations are highly relevant, they belong to another aspect of reality. They are all pertaining to our conscious experiences.

⁹⁹ Michel Foucault in his lecture on *governmentality*, after a brief discussion about the similarity between patriarchal power and the power of state, says that: “in every case, what characterizes the end of sovereignty, this common and general good, is in sum nothing other than submission to sovereignty. This means that the end of sovereign is circular: the end of sovereignty is the exercise of sovereignty. The good is obedience to the law, hence the good for sovereignty is that people should obey it.” Michel Foucault, *Governmentality*, *supra* note 65, p. 95.

¹⁰⁰ In the specific case of Arendt, a political remedy is suggested: political in its general sense, which is inclusive of politics, law, economy, and so forth.

generally stem from neglecting the natural attributes of power itself. Arendt and Benjamin, however, coincide on the generative characteristic of violence; 'violence' for Benjamin is both 'law making'¹⁰¹ and 'law preserving'.¹⁰² For Arendt, similarly, violence is required not only for establishing new polities, but also to maintain 'the power structure intact'.¹⁰³ Nevertheless, although hierarchical violence is a redundant collocation, violent *hierarchy* is a proposition that requires substantiation. Or to put it differently, as I wrote earlier, the correlation between *governmentality* and violence is not unequivocal at all times. The correlation thus, although widespread, is not incontrovertible.¹⁰⁴ Not all hierarchies are violent; therefore, there must be *yet* another element, which alongside *hierarchy* will erect a gibbet and give rise to violence. This will introduce me onto the second origin of violence, what I have termed *lack of bond*.

¹⁰¹ Walter Benjamin, *Critique of Violence*, *supra* note 40, p. 284.

¹⁰² Walter Benjamin, *Critique of Violence*, *supra* note 40, p. 286.

¹⁰³ See Simon Swift, "Hannah Arendt, Violence and Vitality," 2013 16(3) *European Journal of Social Theory* 361.

¹⁰⁴ This explains my choice of vocabulary: To err on the side of caution, I have utilized the term correlation, and not causality, since the former can be a matter of degree, while the latter is virtually absolute.

D. On Lack of Bond

Thus far, my theoretical framework for violence, I must admit, lacks a main component. As I noted in the previous paragraphs, a violent *hierarchy* is a proposition that begs vindication. In order to shed light on the distinction between a violent and a non-violent *hierarchy*, perhaps a story can be enlightening. On April 24, 1982, during the 8-year Iran-Iraq War, when Iran conducted an operation to liberate the city of Khorramshahr,¹⁰⁵ a thirteen-year old soldier, named Zahed was given but a simple order: “clear the bunkers and execute any surviving Iraqis—retribution, it was said, for the rape and murder of many of Khorramshahr’s women by Saddam’s invading troops”.¹⁰⁶ In the thick smell of blood and gunpowder, searching from a bunker to another, Zahed was praying *not* to come across any surviving soldier. But in the horrifying carnage of *Khouninshahr*, under the deafening shower of artillery fire, his prayer could not be heard. After searching only two bunkers, he found an Iraqi soldier, in “a bloodbath”, “moaning in pain”, next to six other dead Iraqis. Finding himself in an absolute hierarchical situation, dominant over the foe in all fashions, in the midst of a vicious war, Zahed—just like any other soldier—was not thinking at that moment about the Geneva Conventions to refrain from vengeance. In moments like that, innate attributes are the only law that rules. On the other side of the story, Najah, the Iraqi soldier, facing his nemesis, found the last glimmer of hope in his pocket. He pulled out a small volume of Quran, daubed with his blood—unlike Zahed’s innocent hands—inside which he kept a

¹⁰⁵ Operation Beit ol-Moqaddas (English: Jerusalem) started on April 24, 1982 and lasted for four weeks. Khorramshahr was occupied for twenty months, and after its liberation, the city has been referred to as Khouninshahr (the blood-laden city), due to the unspeakable violence and brutal conditions during the Operation.

¹⁰⁶ Read the full story by Nancy McDonalds, *His Brother’s Keeper*. Available online at: <http://site.macleans.ca/longform/his-brothers-keeper/>

photo of his fiancée and his son. Showing the photo to the thirteen-year old soldier, his life was spinning like a ball on the roulette wheel. In the motionless stare of Zahed lied fear and hope, resembling an inmate at the foot of the scaffold, oscillating between the hope for a last-minute clemency, and the fear of revenge. But it was precisely in that instant that Zahed “suddenly forgot war” and “decided to help him”. He then reflected, “I thought maybe, like me, life had brought him here”. Neither could speak the other’s language, but an image—the very reason for Zahed’s insubordination—became the pathway through which they communicated. The image, I believe, evoked and rekindled meanings and feelings that perhaps no degree of rhetorical dexterity could ever do. The hierarchical situation, formed specifically to beget death, yielded a new life for Najah. What defied the single-minded military *hierarchy* between Zahed and his commanders, and also between him and his foe pertains to what, I think, is the second origin of violence. Killing, even amid mortal terror of this kind, can be repudiated, as long as a *bond* between the perpetrator and the victim is revived or forged and not broken. But moments like this are rare solace in the tragedy of war.

Breaking the *bond*, in various contexts, prepares the perpetrator to commit violence. Lack of *bond* facilitates aggression. Military training clearly instantiates a process of gradual erosion of *bond*. In Stanley Kubrick’s masterpiece, *Full Metal Jacket*, one sees vividly how a recruit’s training erodes the *bond* amongst the privates, to turn them into “a minister of death praying for war”.¹⁰⁷ During the process of transmutation of young men into killers, one of the raw recruits, named Leonard Laurence,¹⁰⁸ was constantly rebuked by his drill instructor. The

¹⁰⁷ Stanley Kubrick, *Full Metal Jacket*, (Film, 1987: USA), opening scene.

¹⁰⁸ He is called Private Pyle by his commander in the movie, since “only faggots and sailors are called Lawrence”, his drill instructor, Gunnery Sergeant Hartman said.

purpose was clear: break the *bond* and normalize violence. The process, intricately engineered, takes place through various steps. In one scene, for instance, Private Pyle is berated for keeping a 'jelly doughnut' in his unlocked footlocker; then the entire platoon is punished—and disciplined—while Private Pyle eats his doughnut. Once the *bond* between Leonard and the unit became feeble enough, the whole drill squad punished him while he was sleeping, thrashing him with soap bars. The young cadet, Leonard Laurence, entirely isolated from the crew, did not survive the metamorphosis of becoming 'a death minister' to be sent to Vietnam.¹⁰⁹ Neither did his recruit instructor. Private Pyle committed suicide, firing his rifle, 'his life', in his mouth, after killing Gunnery Sergeant Hartman.

One may regard Kubrick's *Full Metal Jacket* as a pictorial translation of Foucault's *Discipline and Punish*, or, rather, Foucault's work as a textual interpretation of some of the concepts depicted in the movie. But this may not be an accurate account. What Foucault argues for, in *The Art of Distribution*,¹¹⁰ for instance, does not precisely pertain to what Kubrick portrays, nor does it fall fully within my argument. For one, based on my reading of Foucault, he seems to be preoccupied with discipline, as a notion which itself stands to a large extent in contrast to physical violence.¹¹¹ As he writes, "there were the military

¹⁰⁹ In a sense, one can alternatively say that he perfectly completed the process, in an inopportune fashion though!

¹¹⁰ Michel Foucault, "The Art of Distribution," in *Discipline and Punish*, *supra* note 89, p. 141. Also, elsewhere, Foucault maintains that, "the distribution according to ranks or grade has a double role: it marks the gaps, hierarchizes qualities, skills and aptitudes; but it also punishes and rewards. It is the penal functioning of setting in order and the ordinal character of judging." See Foucault, *supra* note 89, p. 181. He explains that the punishment in those contexts is in nature discipline, *i.e.* aims at correction and training.

¹¹¹ Needless to say, the outcome of this notion can *occasionally* be violent. As Foucault notes, "Military discipline is no longer a mere means of preventing looting, desertion or failure to obey orders among the troops; it has become a basic technique to enable the army to exist, not as an assembled crowd, but as a unity that derives from this very unity an increase in its forces; discipline increases the skill of each individual, coordinates these skills, accelerates movements, increases fire power, broadens the fronts of attack without reducing their vigour, increases the capacity

barracks: the army... has to be held in place; looting and violence must be prevented.”¹¹² In fact, in the final stages of his genealogical analysis, making bodies docile, practical, and productive becomes the ultimate and primary rationale of the art of distribution, while violence may only occasionally—*e.g.* in an external conflict among states—become a desired product. But in my argument, violence *is* the primary and inescapable consequence of a separation caused, in part, by the disciplinary machine. In other words, lack of *bond*, one of the two origins of violence—alongside *hierarchy*—is partially engendered through the components of the disciplinary machine, such as the art of distribution, panopticism and the control of activity, and so forth. Moreover, Foucault’s examination, as I have written earlier, focuses mainly on the physical manifestations of discipline,¹¹³ its sites of origin, partitioning, and the like, whereas the existence of *bond*, or lack thereof, signify a mental state in my argumentation. In any event, there is little doubt that neither Private Pyle, nor millions of victims of violence, would necessarily sympathise with the genealogical perception of violence. Death is death, whether for “Damiens, the regicide”¹¹⁴ or Private Pyle, if one *sees* from the victim’s eye.¹¹⁵

for resistance, etc.” See Foucault, *Discipline and Punish*, *supra* note 89, p. 210. But, based on Foucault’s ideas, the process of military training itself is fundamentally distinct from, say, torture and its brutal physical violence.

¹¹² Foucault, *Discipline and Punish*, *supra* note 89, pp. 141-142.

¹¹³ See generally, Foucault, *Discipline and Punish*, *supra* note 89, pp. 141-169.

¹¹⁴ Robert-François Damiens, also known as ‘Damiens the regicide’, attempted assassinating King Louis XV in mid seventeenth century Paris. He was then condemned to death through drawing and quartering and other torturous methods. Michel Foucault begins his book, *Discipline and Punish*, with a detailed account of this theatrical punishment. I do not mean, however, to deny the manifest difference in his ceremonial execution and the death of, say, soldiers. Nonetheless, notwithstanding the particularities of the process, the occurrence of death is the selfsame outcome of both occasions; an outcome that is, more or less, stemming from *lack of bond*.

¹¹⁵ I assume that a similar perspective was taken by, for instance, Jean Paul-Sartre in an analysis comparing the Jewish Holocaust to the Vietnam War, in which he concluded that the latter is no different than the killing of the Jews by Hitler. I think what enables one to compare the Holocaust to atrocities of the Vietnam War is, *inter alia*, an ability to transcend the—relatively—inconsequential attributes of such crimes. Although being Jewish or Vietnamese has

No doubt, in wartime the *bond* among humans becomes as frail as the steps of the condemned at the gallows. Nevertheless, broken *bonds* do not merely emerge as a consequence of war, but weakening the *bond* is indeed a tactic itself, sorrowfully an effectual one, used in action. Brutal aggression in hostilities is justified through an intricate strategy of breaking *bonds*. Dave Grossman, a retired Lieutenant Colonel, and psychology professor,¹¹⁶ in his book *On Killing*, scrutinizes the process in a rigorous fashion.¹¹⁷ His account of aggression in war demonstrates a transformation among soldiers in a relatively short period of time. During the American Civil War, writes Grossman, “only a few men actually fire[d] at the enemy, while others gather[ed] and prepare[d] ammo, load[ed] weapons, pass[ed] weapons, or fall [fell] back into the obscurity and anonymity of cover”.¹¹⁸ In fact, soldiers devised various methods to avoid shooting their opponents; soldiers, for instance, would elect to provide support instead of shooting the enemy.¹¹⁹ Firing over the enemies’ heads, falling down and remaining in the mud, and ultimately mock shooting were

played a role in those crimes, their significance is secondary to the sheer suffering of their victims. It is precisely their *relative* insignificance that makes those crimes comparable. The truth, or the reality, of violence can only be seen once these appendages are dismissed. An intersubjective perspective makes possible an understanding that unveils the commonalities between seemingly-different incidents of violence, between *e.g.* a public execution in the 17th Century, and a suicide by an American cadet in Vietnam War. For Sartre’s comparison see generally, Jean-Paul Sartre, *On Genocide*, (Boston, Beacon, 1968), p. 82.

¹¹⁶ Upon his retirement from the military, Grossman has been teaching at the United States Military Academy, West Point. The Academy, which was originally a fortress, was established by one of the founding fathers of the United States, Thomas Jefferson, in 1801. George Washington, a West Point alumnus, called it, ‘the most important strategic position in America’. To date, it remains the oldest military post in the US.

¹¹⁷ David Grossman, *On Killing: The Psychological Cost of Learning to Kill in War and Society* (Boston, Back Bay Books, 2009).

¹¹⁸ Grossman recounts the details from a book, entitled *Battle Tactics if the Civil War*, written by Paddy Griffith (New Haven, Connecticut, Yale University Press, 1989). See Grossman, *On Killing*, *supra* note 117, p. 22.

¹¹⁹ Due to an overwhelming inclination towards loading weapons and providing ammunition, some men fired four hundred rounds, an incredible number compared to the standard rate of forty rounds per battle. The guns would be too fouled to be used after forty times. The extra ready-to-shoot muskets were supplied by the less violent comrades. Grossman, *On Killing*, *supra* note 117, p. 22.

amongst the tactics employed by those who chose not to kill.¹²⁰ A closer historical look at the latter unveils a mind-baffling change. In the Battle of Gettysburg, out of 27,574 muskets, recovered from the battle field, nearly ninety percent were loaded. “A loaded weapon”, Grossman maintains, “was a precious commodity on the black-powder battlefield”.¹²¹ Grossman explains that:

“There was not any ‘isolation and dispersion of the modern battlefield’ to hide nonparticipants during a volley fire. Their every action was obvious to those comrades who stood shoulder to shoulder with them. If a man was truly not able or willing to fire, the only way he could disguise his lack of participation was to load his weapon [...] bring it to his shoulder, and then *not actually fire*, possibly even mimicking the recoil of his weapon when somebody nearby fires.”¹²²

In the twinkling of an eye, the firing rate soared from fifteen percent in WWII to fifty-five percent in Korea to the appalling rate of ninety-five percent in Vietnam.¹²³ But why those ‘precious commodities’ were unused? There exists, undoubtedly, numerous pieces in this puzzle. However, what remains virtually unequivocal about this anomalistic escalation is a pellucid reality that killing became significantly easier in Vietnam. In simple terms, killing had never been *such an easy job* before the Vietnam War. Of all possible explanations, I found myself in accord with *part of* Grossman’s assertion. One of the reasons he suggests pertains to the Freudian conceptualization of ego, id, and self. “The id”, writes Grossman succinctly, “wields the Thanatos like a club and screams at the ego to kill”.¹²⁴ This, however, might be

¹²⁰ Grossman, *On Killing*, *supra* note 117, p. 22.

¹²¹ Grossman, *On Killing*, *supra* note 117, p. 23.

¹²² The rate of nonparticipation in WWII was approximately 80 to 85 percent. See Grossman, *On Killing*, *supra* note 117, pp. 24-26.

¹²³ Grossman, *On Killing*, *supra* note 117, p. 36.

¹²⁴ Grossman uses Freud’s contention regarding the life instinct (Eros) and the death instinct (Thanatos). In an unsettling struggle between these forces, “the superego [the conscious]”, notes Grossman, “appears to have been neutralized, for authority and society say that now it is good to do what has always been bad”. He also asserts that

unsatisfying, and perhaps somewhat simplistic, although it bears some truth to which I will return shortly. But there is another argument in his work that explains the ‘anatomy of killing’ in a more cogent fashion. Grossman points out that, *inter alia*, physical¹²⁵ and emotional¹²⁶ distance constitute the cornerstone of [an anatomy of] killing. With regard to physical violence, while I principally coincide with his assertion, and I think the correlation is a matter of fact, I would like to add another element of complexity to this correlation. Physical distance may facilitate aggression, but not always. In fact, the importance of physical gap between the victim and the perpetrator of violence is virtually always *secondary* to a psychic breakdown of *bond*. In a public execution, for instance, the physical space between the executioner, bystanders, and the condemned is no more than a few steps. But the voyeuristic onlooker, on the one side of the psychic divide, stands absent-mindedly, afar from the executed. The executioner, too, cannot *see* any bit of his reflection in the eyes of the felon. Too alien—or eerie enough—looks the felon to one who inhabits but a shattered piece

what precludes soldiers from killing is Eros. See Grossman, *On Killing*, *supra* note 117, p. 38. His Freudian explication, for concrete reasons, appears to be somewhat inconsistent. Besides the challenge in attributing the act of killing to an instinctive force, there remains an ambiguity, or some sort of superficiality, in this assertion. How does Eros yield to Thanatos after all? Grossman seems, like Freud himself, to have left this question underdiscussed. More importantly, this segment of his contention seems to lose its rigor once it is read against another part of the book. In one of the chapters, he expounds on the similarity between sex and killing. He, going through various military anecdotes, briefly touches upon how killing *as* sex, or vice-versa, can be a plausible assertion—with which I cannot agree more. See Grossman, *On Killing*, *supra* note 117, pp. 134-137; this partially refers to the first component of my theoretical framework, wherein I sought the origins of the death penalty in the archaic act of copulation. But if that is the case, if sex and killing are inextricably entangled, how can we, at all, talk of two opposing instincts? Are those, *i.e.* primal aggression in sex and killing, both manifestations of one psychic attribute? This is my contention that they may well be.

¹²⁵ In a graph, Grossman suggests, a correlation between ‘physical distance from target’ and ‘resistance to killing’ [or ease of aggression]. On one end of this spectrum exists killing with the bear hands and “the macabre region [...] where sex and killing intermingle”, while on the other end of the spectrum missiles and drones deliver death. See Grossman, *On Killing*, *supra* note 117, pp. 97-98.

¹²⁶ See Grossman, *On Killing*, *supra* note 117, p. 156.

of their psyche.¹²⁷ Clearly, this is not to assert that physical distance or proximity play a trivial role altogether. Although the gap may not always be simply bridgeable through a physical path, the impact of physical proximity in deterring violence is indubitable. The deterrent effect [of physical propinquity], however, does not happen in a simple fashion.

Physical proximity can transform perception. However, in the absence of a close relationship with physical reality, deeds erupt from misunderstandings, which mainly stem from our fears and needs.¹²⁸ There is little room for fearful abstract ideas about someone in your vicinity. Brute reality puts fanciful platitudes to the test. Hearing someone shouting *Allah (u-Akbar)* will not intimidate you, if you also hear it from your Middle Eastern neighbour kicking a football!¹²⁹ Once you maintain a close relationship with your surroundings, you may not simply fall for populist clichés.¹³⁰ Fear-mongering policies and

¹²⁷ Moreover, infanticide, fratricide, filicide, mariticide, uxoricide and—perhaps the most germane to my critique—suicide all exemplify the relative inconsequentiality of physical distance, on which I will expound shortly.

¹²⁸ In the previous chapter, I have discussed the correlation between violence and needs.

¹²⁹ Due to a stereotypical understanding, portrayed by the mainstream media, the phrase ‘Allahu Akbar’ (English: God is [the] great[est]), is widely associated with the so-called ‘radical Islamic terrorism’—a term coined and popularized by Donald Trump—whereas the phrase is simply an exclamatory expression for various human emotions. Maz Jobrani, an American-Iranian comedian once derided this stereotype in a comedy film, *Jimmy Vestvood: Amerikan Hero* (Jonathan Kesselman, 2016) wherein his mom, coming from Iran, screams *Allahu Akbar* during airplane turbulence. They then get immediately arrested by the anti-terrorism police. Interestingly, this phrase has also been partially borrowed by some non-Islamic cultures, and has been utilized to communicate joy, excitement, and the like. In flamenco culture, for instance, the term *olé*, that expresses an emotional flow (*aire*) and excitement, is derived from *Allah*. Similarly, when Argentine football fans, in *Estadio El Monumental* in Buenos Aires, chant ‘Olé, olé olé olé, Die-go, Die-go!’ they too are using the same term in its most frequent context.

¹³⁰ I humbly maintain that it is for the same reason that Indigenous Peoples’ cultures are more protective of Mother Nature. Worldviews, which are born out of a profound and mutual relationship with nature, cannot be detrimental to the environment, wherein their roots lie. Throughout millennia, experiencing the brute forces of nature and the rare blessings thereof has given some cultures the gift of fathoming the deep interconnectivity between all natural elements, living and otherwise. The fragility of life, its transience, and its reliance upon *everyone* and *everything* in the fathomless fabric of existence, are lessons that can only be learned through retaining constant intimacy with Nature. Appreciations of this kind tend to fall beyond most of the Western traditions of science, in which *mastering* the natural world—not developing a harmonious relationship with it—is a source of inspiration. For a critical analysis of Indigenous knowledge and its differences from Western science see generally, Raymond John Pierotti, *Indigenous*

populist media are largely predicated upon lack of such relationships with the physical reality. Once you cannot *see* for yourself, you become prone to gullibility. In short, such disconnectedness fertilizes the ground for hatred and thus violence.¹³¹ Nonetheless, physical proximity in an all-embracing fashion is simply unattainable and impracticable.¹³² And more importantly, as I noted earlier, in numerous occasions propinquity not only fails to beget peace, but may also foster the seeds of violence.¹³³

Knowledge, Ecology, and Evolutionary Biology, (New York, Routledge, 2012), and specifically pp. 68-91 and pp. 178-196.

¹³¹ In a paper published in *Human Rights Quarterly*, Antoine Buyse has discussed an aspect of the relationship between fear [speech] and violence. See Antoine Buyse, "Words of Violence: "Fear Speech," or How Violent Conflict Escalation Relates to the Freedom of Expression," (2014) 36(4) *Human Rights Quarterly*, pp. 779-797.

¹³² Notwithstanding the elusiveness of this task, *i.e.* physical proximity in an all-embracing fashion, I believe that it undoubtedly merits an endeavour within the temporal and spatial limits of one's life. Although exposure to the entire physical reality is unattainable, maintaining contact with reality, although partial, provides one with a unique opportunity to experience other actualized manifestations of life. Through travelling, for instance, one gets to *see* how colourful life and the world are. This may well challenge the crude judgementality and the essentialist biases of the beholder. Mulla Sadra, a gifted and sophisticated Iranian philosopher and mystic, writes in his book, *The Transcendent Wisdom [Theosophy] in the Four Journeys of the Intellect*, of four journeys towards perfection, the last of which takes place among and through the heterogeneity of creatures, while keeping wisdom of homogeneity and oneness, a journey within the multiplicity of unitary truth, if you will. Throughout this journey, the physical and metaphysical realities are inextricably amalgamated. Seyyed Hossein Nasr, a Gorge Washington University professor, and an eminent philosopher, summarises Mulla Sadra's assertion in a few lines, which is worth quoting here: "The fourth journey is the journey from the creature to the creature with the Truth. He [the voyager] observes creatures and their effects and exigencies. He knows their benefits and their evils, temporally and spiritually. He becomes a law-giving prophet. He brings knowledge of the subsistence of creatures, their harms, their benefits, what causes them to possess felicity and what brings them misery. In all this he is "with the Truth" because his being has become "veridical" and the attention paid by him to the creature does not distract his concentration upon the Divine [but enriches his insight]. The sages meditate upon the horizons and their own being and see his portents manifested therein. They see all existence and all Perfection drowned in His Being and His Perfection. Or rather, they see all existence and perfection as a spark of His Light and a theophany from the theophanies of His Manifestation. Then they look at Being and meditate upon Its very reality. They argue from Its essential necessity to prove that It is without parts, has Unity and possesses Knowledge, Power, Life, Will, Hearing, Sight, Speech and other attributes of Its perfection. They interdict that which corrupts and order that which is beneficial. They meditate upon the problem of the other world and know what exists therein of heaven and hell, reward and punishment, the path, the account, the balance. This is the fourth of the four intellectual journeys." See Seyyed Hossein Nasr, "the Asfar," in *Sadr Al-Din Shirazi and His Transcendent Theosophy*, (Tehran, Imperial Iranian Academy of Philosophy, 1978), pp. 59-61. (The text is condensed, and brackets are added.)

¹³³ In *Gallows*, I have demonstrated this assertion. Therein, not only physical closeness fails to deter violence, but the murder [of the second husband] occurs, at least in part, due to the dynamics of the corporeal intimacy.

Before I react to the insufficiency of physical distance—as a plausible component in an overarching account of violence—I must note that such divides are not particular to the military arena, but ubiquitous in all spheres of [modern] life. Norbert Elias in his short but engrossing book, *the Loneliness of the Dying*, scrutinizes the divide between the dying and modern society. Therein, after an intersectional critique of death, the dying, and modernity, he notes that “the idea of having to die *alone* is characteristic of a comparatively late stage of individualization and self-awareness”.¹³⁴ “Death”, he maintains, “is not terrible. Terrible can be the pain of the dying.”¹³⁵ The pain, however, is not caused by death itself, but the isolation of the dying, or rather, in a broader sense, the individualization of modern man. Expounding on this, Elias notes, “That is the hardest thing—the tacit isolation of the ageing and dying from the community of the living, the gradual cooling of their relationships to people to whom they were attached, the separation from human beings in general, who gave them meaning and security”.¹³⁶ Clearly, this argument is even more pertinent to the discourse on capital punishment. In modern times, with death and the dying being forgotten,¹³⁷ one can

¹³⁴ Norbert Elias, *the Loneliness of the Dying*, Edmund Jephcott trans., (Oxford, Blackwell, 1985; Continuum, 1985, 2001), pp. 59.

¹³⁵ Elias, *the Loneliness*, *supra* note 134, p. 66.

¹³⁶ This observation reminds me of the death row phenomenon. Indeed, no words can convey the depth of anguish, that every day and night, the inmate goes through, with their own death creeping over their mind and body. The isolation, behind bars and the thick walls of prison, while awaiting death, is perhaps the most agonizing of all punishments that man has ever inflicted upon another member of its own kind. No surprise, death row prisoners so oft long for their death, to terminate this gradual life-rending experience, during which time pierces its clock-hands through the heart of the condemned with every tick-tock. An antinomy lies in the heart of capital cases which, I believe, merely doubles the suffering of the convict. Awaiting one’s death is tormenting, while accelerating the process jeopardizes the minimum requirements for a fair trial, not to mention that any abolitionist hope dwindles in an expedited process. The inmate is killed twice, once at the scaffold and another time through a gradual [de]parting, secluded from everything and everyone that give meaning to one’s life. Which death is worse, I am uncertain.

¹³⁷ About this shift of attitude, Elias notes that “Life grows longer, death is further postponed. The sight of dying and dead people is no longer commonplace. It is easier in the normal course of life to forget death. Death is sometimes said to be ‘repressed’.” Elias, *the Loneliness*, *supra* note 134, p. 8. In fact, in modern societies, under the heavy shadow of technological advancements, humans live in a deep denial of death, as though they can escape it, should they run faster on treadmills or eat healthful meals. Shell Silverstein, an American cartoonist and songwriter says, in one of his

only imagine how easily the condemned can be dismissed. Overall, one must bear in mind that, to say the least, part of the pain, part of our misunderstanding of execution, or the callousness of bystanders may all stem from the gap, or the separation that individualization has brought to us.¹³⁸ The all-pervasive loneliness—of modern man—is an oft-dismissed but significant aspect of the discourse on violence, and *a fortiori* capital punishment. The loneliness of the executed is yet another manifestation of a divide, wherein the second origin of violence resides. Before I reluctantly leave alone *loneliness* and *physical distance*, I wish to illustrate the essence of my argument with a photo.

famous songs: “Drink ginseng tonics, you're still gonna die. Try high colonics, you're still gonna die. You can have yourself frozen and suspended in time, but when they do thaw you out, you're still gonna die [...] You can get rid of stress, get a lot of rest, Get an AIDS test, enroll in EST, Move out west where it's sunny and dry, And you'll live to be a hundred, But you're still gonna die.” Shell Silverstein, “Still Gonna Die,” in *Old Dogs* (lyrics, Atlantic, 1998); Shell died six months after the *Old Dogs*’ album was released.

¹³⁸ Individualization and its by-products are indeed among the most prominent traits of modernity. It is certainly difficult, if not impossible, to evoke empathy among over-individualized members of modern societies, who themselves suffer from a fragmented *self*. For an analysis of modernity and self—and the anxiety caused by its fragmentation—see, Anthony Giddens, “The Self: Ontological Security and Existential Anxiety,” in *Modernity and Self-Identity*, (Cambridge, Polity Press, 1991), pp. 35-69.



Photo credit: Amir Pourmand, *Moments before Hanging*, (Photography, 20 January, 2013: Tehran) Iranian Students' News Agency (ISNA).

How forsaken and friendless he must have been, when the hangman's shoulder was the only shoulder left for him to weep on.¹³⁹ The last scene of the tragedy is mordantly ironic, wherein the condemned receives the last touch of care from the black-clad executioner's caress.¹⁴⁰ But what, after all, divides the hangman and hundreds of spectators from the executed? What enables a man to take the life of a person after being his final solace?¹⁴¹ What brings hundreds of people, on a working day, before six o'clock in the morning, in the bone-chilling draught of January, to watch a man dangling from the noose?¹⁴²

One might immediately argue that what separates the victim from the perpetrator is not a physical divide but an emotional one. This appears to be a more plausible predicate, hence worth pondering upon. Therefore, one can argue that an emotional barrier must exist

¹³⁹ Alireza Mafiha was executed at the age of 23 for stabbing a man—who nevertheless survived—and stealing his bag, which was worth some ten dollars. At the dawn of January 20, 2013, before the sunrise, he and Ali Sarvari, who had only seen twenty springs in his life, were both executed near the crime scene, at Honarmandan (English: Artists) Park in Tehran, in the presence of nearly three hundred people.

¹⁴⁰ A similar story is depicted in an American movie. See Tim Robbins, *Dead Man Walking*, (Film, 1995, USA)

¹⁴¹ I must add that most of the soldiers, who are appointed to carry out an execution, experience severe psychological traumas. The trauma resembles an open wound that time cannot stitch. One of these soldiers, who was directly involved in more than thirty executions, ten years after finishing his service, said with his eyes in tears and a lump in his throat, "it is stupid to think that anyone who has skin, flesh, and bone, and a heart beating in his chest, can do this [carrying out an execution] in an easy way". Connoting the swing of the executed from the noose, he adds: "Once your [the executioner's] body is [also] moved, the move lasts for good." [Translation from Farsi is mine] "Memories of an Executioner", *Khabaronline*, (News article, February 25, 2015, accessed on December 2016)

<http://www.khabaronline.ir/detail/401977/society/judiciary>

It is, however, easy to forget that behind the petrifying black-clad disguise of the hangman, a pair of *human* eyes register the sheer absurdity. "It has been two years of therapy and medication", another executioner says, "to help myself reduce the level of anxiety and [get rid of] nightmares". The first time "[m]y steps were heavy, heavier were the convict's. I could feel his body shake severely. There was no clemency at the gallows [since it was not *Qisas* (English: retributive punishment)]. After that day, I could not sleep for two nights. I felt responsible for his death. I went to see the prison's consultant and he told me, "they all must die, they have already killed themselves; you don't kill any of them". But his words never helped." [translated from Farsi] "An interview with an Executioner", *IranWire* (News article, March 25, 2016, accessed April 2016) <https://iranwire.com/fa/features/1754>

¹⁴² This is not at all to say that everyone rejoices at witnessing public executions. Various reasons bring each individual to the scene. Some simply spy the tumult and cannot resist inquisitiveness. For many it is both the first and the last time registering a theatrical sanction.

between the two sides of violence.¹⁴³ Perhaps for the same reason, Dave Grossman too, wrote in his book of emotional distance.¹⁴⁴ Nonetheless and ironically, I am not certain whether he stepped beyond the physical realm at all. He dissects ‘emotional distance’ into four components, namely cultural, moral, social, and mechanical. The latter refers to devices that are utilized to target and annihilate the enemy, such as night-vision goggles that convert “the target into an inhumane green blob”.¹⁴⁵ As to the cultural distance, while there may be some truth in this proposition, it loses its substance blatantly in the face of real life examples. Too often, unconscionable crimes take place in contexts with indistinguishable—if not homogenous—cultures. I cannot, for instance, think of any two nations bearing more [cultural] resemblance to one another than Azerbaijanis and Armenians,¹⁴⁶ or similarly, one

¹⁴³ Some may argue that violence has three parties: victim, perpetrator, and audience. Vittorio Bufacchi, for instance, maintains that “the social dynamics of an act of violence is more accurately captured by a trilateral social relationship involving a perpetrator, a victim, and a spectator”. See Vittorio Bufacchi, *Violence and Social Justice*, (Basingstoke, Palgrave Macmillan, 2007) p. 34. Notwithstanding its appeal, I doubt that it is an accurate account. The reason that this understanding resonates with many of us is that we, as scholars, normally *share* the same perspective of the third party, *i.e.* the spectator’s. From the view point of the perpetrator or the victim, however, this conceptualization might be nonsensical, a mere philosophic categorization. For a more plausible and beneficial understanding of violence, it may suffice to take into account the *context* within which violence occurs, and forgo self-manufactured oversimplifications. After all, examining the context, which is not reducible to merely a third party, can make possible a richer and more profound insight into the question of violence.

¹⁴⁴ Grossman, *On Killing*, *supra* note 117, pp. 156-170.

¹⁴⁵ Grossman, *On Killing*, *supra* note 117, pp. 169-170.

¹⁴⁶ During the Nagorno Karabkh Conflict, both Azerbaijani and Armenian armies were involved in the bloodiest of battles. Ironically, in most cases, the victims were from families where both Christianity and Islam were highly revered throughout history. It would be normal if a Muslim family had a Christmas tree in their yard. Donations from Christians to Muslims’ rituals and ceremonies, on the other hand, were quite frequent. Apart from these, the two nations share their most loved cultural elements, from folkloric melodies, costumes, to their tales, foods, and beyond; but once the fire of war blazes, such similarities and commonalities are buried beneath the corps of innocent victims. “The most notorious of these attacks”, Human Rights Watch reports, “occurred on February 25 in the village of Khojaly. A large column of residents, accompanied by a few dozen retreating fighters, fled the city as it fell to Armenian forces. As they approached the border with Azerbaijan, they came across an Armenian military post and were cruelly fired upon. At least 161 civilians are known to have been murdered in this incident, although Azerbaijani officials estimate that about 800 perished. Armenian forces killed unarmed civilians and soldiers who were *hors de combat*, and looted and sometimes burned homes.” See Human Rights Watch World Report 1993, “Azerbaijan: Nagorno Karabakh”, in *the Former Soviet Union*, (1993).

<https://www.hrw.org/reports/1993/WR93/Hsw-07.htm>

can say that between the denizens of Srebrenica and Serbian culture, there existed more than kinship. Regarding the moral and social distance, I must reiterate that they cannot, like the cultural and mechanical distance, establish a basis that would withstand the test of all the instantiations of violence.¹⁴⁷ All in all, I am convinced that these are dissimilar manifestations of a deeper disconnect which is occasionally translated into such differences. In other words, although moral, emotional, religious, and other kinds of distance often act as a catalyst for violence, they themselves originate from an unconscious psychic split. What blinds our eyes to naked reality, what enables us to dismiss our similarities and commonalities, and accentuates our small differences, is not a night-vision goggle, but a deep divide between *self* and *other*. Perhaps the divide—that can help us fathom violence in a more comprehensive fashion—can be sought amid the scattered pieces of a disintegrated *self*.

E. The Genesis of 'Other' from the Matrix of 'Self'

On December 20, 1943, just a few feet above the thick layer of smoke covering the skies of somewhere near Bremen, Lieutenant Franz Stigler was piloting his Bf 109 Spitfire, chasing an American B-17 bomber. The mission was to destroy the American bomber. Seeing the bomber with almost no tail and icicles of blood on the machine guns, the German ace pilot was certain about the casualties. Looking at his right window, the 21-year old American pilot, Charles Brown, saw the German Messerschmitt hovering a few meters over his right wing; the last thing a pilot would wish to see on his first combat. In the face of the Grim Reaper, Charles could not keep his eyes open; he shot his eyes, hoping that when he reopens

¹⁴⁷ See, Grossman, *On Killing*, *supra* note 144.

them, the overpowering German fighter would be gone, as so would himself be. Upon the encounter, Franz looked into the cockpit of the crippled bomber, and locked eyes with the petrified eyes of her pilot. He was about to fire. In aerial battles, sometimes skill saves one's life, sometimes luck, but this time, the rookie pilot and his crew were saved by something else: a *bond* between the enemies. Perhaps right before Charles closed his eyes, something was rekindled in Franz mind, perhaps his only brother's eyes—whom he had lost in 1940. "For me", Franz recounts after more than four decades, "it would have been the same as shooting at a parachute—I just couldn't shoot".¹⁴⁸ Franz imperilled his life escorting the bomber to safety. He also favoured his own possible execution (for treason), to a kill that could have awarded him the Knights' Cross.¹⁴⁹ These facts must not be overlooked. The fact that Franz chose to spare Charlie's life, notwithstanding knowing that he could be court-martialed and executed upon landing, has but one meaning: For Franz, I believe, there existed no distinction between his own self and Charles' (and his Crew's). Killing Charlie was identical to having himself executed; therefore, he could not have preferred the former by his own choice. There was no space, no spilt whatsoever, between Franz's *self* and Charles'. Needless to say, flying strangely-close to the ground, right next to a crippled plane under the American flag, heading towards England, could have simply cost his life. But Franz, no doubt, could see fragments of *himself* in Charlie's eyes.

¹⁴⁸ Franz and Charles reunion happened after forty-six years, in Florida. Explaining his feelings, upon meeting with Franz, Charles said, "[I] felt that we had something in common [...] it was like meeting a family member, a brother you haven't seen." A summary of the story, alongside an interview with the two pilots is available online at: <https://www.youtube.com/watch?v=nNmyvZ9lv94>.

¹⁴⁹ The Knight's Cross of the Iron Cross was the highest military medal awarded in Nazi Germany during WWII.

Nevertheless, I admit that this account of *bond* may strike some as being outlandish, or simply too alien to relate to. Thus, I would like to break down my proposition to [some of] its elemental components in order to further illuminate my argument. In so doing, scrutinizing a gender category as one of the distinctive constituents of *self* can be enlightening. But before expounding on gender and *bond*, I must acknowledge that I do not have the audacity to attempt at giving a thorough examination of gender, not to mention the fact that it would be nonetheless an unattainable task, due to the fluid nature of gender. To put it differently, any essentialist categorization of gender cannot address its mercurial and dynamic reality. Therefore, for the purpose of my argumentation, I would take a closer look at femininity [and masculinity], merely as an example.¹⁵⁰ I would then cautiously assume that femininity and masculinity, together as polar opposites and alongside other attributes, are constituents of a limitless continuum of *self*. Based this conceptualization of self, if I succeed in demonstrating the possibility of a *bond* between, say, these two contrasting categories, it would then be feasible to conceive of a similar *bond* among other gender categories, and other constituents of *self*. By demonstrating the *bond* between masculinity and femininity, an extended notion of *self* will become plausible, one that can encompass the two. As a result, and as I will elucidate shortly, failure of such *bond* can give rise to violence against a fragment of one's *self*, or what in some cases is known as, gender-based violence.

First, let me cast a brief look upon the feminine *self* and examine its relationship with *bond* and violence. Carol Gilligan, in her groundbreaking *In a Different Voice*, alluding to a

¹⁵⁰ Gender itself and categorizations thereof are not at issue here. In fact, a vague acknowledgement of the existence of some distinctive qualities in individuals would suffice—which may be referred to as gender. Having admitted the existence of such qualities, I would be able to expound on the notion of *bond* between these seemingly-contrasting attributes of self.

Freudian metaphor of self, explains that violence among women¹⁵¹ occurs once the ‘crystal of psyche’ is thrown to the floor and breaks into pieces.¹⁵² Fracturing of relationships, she argues, fertilizes the ground for aggression. However, it is noteworthy that Gilligan externalizes this notion [of lack of *bond*], by extending the metaphor to relationship breakdowns.¹⁵³ But one can argue that she is perhaps not extending the metaphor, but discussing one of its materializations at a different level, *i.e.* interpersonal relationships. The crystal of psyche, as I will discuss shortly, is neither [both] feminine, nor [and] masculine. She, nonetheless, attributes the capability of forming such *bonds* to women.¹⁵⁴ Elsewhere, in her book, through examining stories and analysing first-hand narratives, she maintains that in a distinct morality [among women] “self and other are interdependent”,¹⁵⁵ and the *bond* between the feminine self—or women in Gilligan’s language—and other fosters care and precludes violence. Expounding on motherhood, for instance, she argues that “to be a mother in the societal and physical sense requires the assumption of parental responsibility for the care and protection of a child. However, in order to be able to care for another, one must first be able to care responsibly for oneself.”¹⁵⁶ In short, the oneness of *self* with *other*, which can

¹⁵¹ Most of the narratives and interviews, supporting this assertion, are related to the specific case of suicide and the crisis stemming from abortion.

¹⁵² Carol Gilligan, *In a Different Voice: Psychological Theory and Women’s Development*, (Cambridge, Harvard University Press, 1982), pp. 107-109.

¹⁵³ Gilligan, *In a Different Voice*, *supra* note 152, p. 108.

¹⁵⁴ For instance, she writes: “since women, however, define their identity through relationships of intimacy and care, the moral problems that they encounter pertain to issues of a different sort.” *Supra* note 117, p. 164; or, she describes that Gandhi and the biblical Abraham “in the limitation of their fatherhood, stand in implicit contrast to the woman who comes before Solomon and verifies her motherhood by relinquishing truth in order to save the life of her child.” Gilligan, *In a Different Voice*, *supra* note 152, pp. 104-105.

¹⁵⁵ Gilligan, *In a Different Voice*, *supra* note 152, pp. 117, 74.

¹⁵⁶ Gilligan, *In a Different Voice*, *supra* note 152, p. 76.

be made possible through an [external] intimate relationship, is the unique sense of morality and self that Gillian extensively demonstrates among women. Although Gillian's work indeed opens the reader's eyes, perhaps ears, to the unheard voice of the feminine self, I feel obliged to raise two major critiques of her work here. These observations will help me clarify my proposition of *self*, which will be inclusive of, *inter alia*, both femininity and masculinity. First, as I implied earlier, the concept of *bond*, which is at issue in my analysis, can be explored at an even more profound level. Gilligan's work focuses largely on external manifestations of *bond*, relationships, caring for others, and the like. But *bond* [or lack thereof] originally resides, as Freud's metaphor of crystal suggests, within one's self. I believe the process which ultimately results in the breakdown of [external] *bond* is a matter of intrapersonal disintegration. Secondly, and perhaps more importantly, she seems to uphold the classic binary of sexes, *i.e.* male and female, in her argument particularly through an essentialist attribution of a *different* voice to women.¹⁵⁷ This, I'd argue, can ultimately be counterproductive, contributing to the split that itself creates the concept of *other*. The different voice of women is, to my ears, audible just insofar as the silence of men is deafening. But the *voice*, or the capacity to *bond*, has perhaps been stifled in men, depriving them from part of their *being*. This is, however, not to imply that men and women, throughout the course of evolution, have not come to *present* different qualities,¹⁵⁸ rather, it is to stress that the

¹⁵⁷ She seems to be using the terms feminine and women interchangeably. Although her work, at the time of its publication in 80s, was considered ground-breaking, I believe a few philosophers and psychoanalysts, some a century before Gilligan, like Hegel (*Independent and Dependent Self-Consciousness: Lordship and Bondage*, 1807), Nietzsche (in *the Birth of Tragedy*, 1872), and Carl Gustav Jung, did explain the phenomenon of self, metaphorically or explicitly, in a rather non-binary fashion. I will return to these works, when the time is ripe.

¹⁵⁸ One can argue that these distinct attributes have been, for various biological reasons, unconsciously projected onto men and women. I will expand on this notion later.

capability for care and *bond* is not exclusive to women, but a human attribute, shared by every individual, albeit subordinate in many. This is a critical observation, and it can pave my way unto seeking a notion of *self* that can transcend all categorizations of this kind.

Carl Gustav Jung, perhaps more rigorously than others, illustrates this claim by asserting an element, embedded within the psyche of all humans: the archetype of *anima*.¹⁵⁹ Jung argues that the anima is part of our collective unconscious, which is usually and unconsciously projected upon women. In the repository of the collective unconscious lies the feminine *self*, an *a priori* element functioning in the psyche of all members of mankind, regardless of gender and other self-made categorizations. “Either sex is inhabited by the opposite sex up to a point”,¹⁶⁰ Jung notes, “For, biologically speaking, it is simply the greater number of masculine genes that tips the scales in favour of masculinity. The smaller number of feminine genes seems to form a feminine character, which usually remains unconscious because of its subordinate position”.¹⁶¹ Here Jung, I think, is invoking an undisputable brute fact to substantiate his claim; the genetic inheritance of both feminine and masculine attributes from our ancestors is not refutable, and I think adducing a genetic fact brought

¹⁵⁹ “One of these archetypes, which is of paramount practical importance for the psychotherapist, I have named the anima. This Latin expression is meant to connote something that should not be confused with any dogmatic Christian idea of the soul or with any of the previous philosophical conceptions of it. If one wishes to form anything like a concrete conception of what this term covers, one would do better to go back to a classical author like Macrobius, or to classical Chinese philosophy, where the anima (*p’o* or *kuei*) is regarded as the feminine and chthonic part of the soul.” See Jung, *the Archetypes*, *supra* note 67, § 119.

¹⁶⁰ It is noteworthy that the distinction between sex and gender might be somewhat clouded in Jung’s works. However, the anima must not be translated, or reduced, to a gender category, since it is itself an archetype. (See Jung, *the Archetypes*, *supra* note 67, § 57.) An extensive review of Jung’s work clearly shows that sex, and perhaps gender too, play a secondary role in explaining patterns of human behaviour, while psychic attributes predominantly determine human conduct. Nonetheless, irrespective of Jung’s terminology—which had to be sensible at his own time—the substance of his theory may open new horizons for explicating the complex issue of gender today.

¹⁶¹ See Jung, *the Archetypes*, *supra* note 67, § 58.

empirical sensibility to his claim—especially for those whose *boundaries of episteme* are delineated within the so-called scientific method.¹⁶² His assertion, however, is supported through not only genetics, but various modes of understandings. For example, after demonstrating his claim through extensive clinical, mythological, divine, and cultural observations,¹⁶³ Jung maintains that “the anima is a factor of the utmost importance in the psychology of a man wherever emotions and affects are at work. She intensifies, exaggerates, falsifies, and mythologizes all emotional relations with his work and with other people of both sexes.”¹⁶⁴ It must be borne in mind that Jung may be situated in the forefront of this sort of solipsistic contention, but is certainly not alone. One can even argue that this claim is not entirely novel, but undoubtedly oft-disdained. Perhaps the most philosophically grounded assertion of this notion can be inferred from Friedrich Hegel’s short essay entitled *Independent and Dependent Self-Consciousness: Lordship and Bondage*.¹⁶⁵ Hegel’s notion of

¹⁶² It is believed that life is encoded in the secrecy of our genome, in our DNA. Despite the unprecedented advancements, our knowledge of DNA, nonetheless, is still limited, and deeply humbling. Based on years of observation and experiment, it has been suggested that DNA, this ‘building block of life’, can be conceived of being divided into exons and introns. The former is known to be responsible for generating proteins. Our knowledge about exons is in its infancy. We have, for instance, recently discovered a *cross-talking* phenomenon, a sort of communication between the proteins themselves inside the cell; we are astronomically far from fathoming the complexity of this phenomenon. Introns, on the other hand, which constitute about 70% of our DNA, are not expressed in proteins, and to date their precise function has remained unknown to us. This degree of ignorance about the anatomy of the smallest unit of life would bring humility to those who naïvely seek a formula for everything in science. See generally James Ritter, Rod Flower, Graeme Henderson, Humphrey Rang, “Section One: General Principles,” in *Rang & Dale’s Pharmacology*, 7th ed., (Elsevier Churchill Livingstone: 2012), pp.1-89; Patrick R. Murray, Ken S Rosenthal, and Michael A. Pfaller, “Chapter 12: Bacterial Classification, Structure, and Replication,” in *Medical Microbiology*, 8th ed., (Philadelphia: Elsevier/Mosby, 2013), pp.105-118.

¹⁶³ See, for instance and generally, *Ibid* § 12-27 and 100-110. Also in paragraph 120, where he notes, “we encounter the anima historically above all in the divine syzygies, the male-female pairs of deities. These reach down, on the one side, into the obscurities of primitive mythology, and up, on the other, into the philosophical speculations of Gnosticism and of classical Chinese philosophy, where the cosmogonic pair of concepts are designated *yang* (masculine) and *yin* (feminine). We can safely assert that these syzygies are as universal as the existence of man and woman.” Jung, *the Archetypes*, *supra* note 67, § 120.

¹⁶⁴ Jung, *the Archetypes*, *supra* note 67, § 144.

¹⁶⁵ Hegel, *Phenomenology of Spirit*, (1807), *supra* note 2, pp. 111-118.

self-consciousness—which, I think, is to a large extent parallel to Jung’s—is based on a simple, but profound, observation that suggests *seeing self*, initially, not as a positive materialization, but negation of everything and everyone else, or *other*. His proposition is built upon a subtle shift of attitude, which might be condensed and simplified into my all-too-imperfect utterance: one’s *being*, or *self* if you will, is [inextricably entangled with] what one is *not*. Let me entertain an example to perhaps diminish the obscurity of my language: a forty-year old woman, for instance, who works at a bakery in Montréal *is* what she is, just inasmuch as she is *not*, say, a steward, thirty years old, working for Air Canada, and so on and so forth, to a point that every-thing is negated but *her being*. A holistic negation of what she is *not* corresponds—seamlessly and mathematically—to what she *is*. In this sense, *other* becomes a mirror without which ‘I’ cannot exist. “Through this”, Hegel maintains, “there is posited a pure self-consciousness, and a consciousness which is not purely for itself but for another, *i.e.* is a merely *immediate* consciousness, of consciousness in the form of *thing-hood*”.¹⁶⁶ In this notion, the existence of ‘I’ is entirely dependent on *other*. The dialectic between ‘I’ and other makes possible the existence of I and the breakdown of this *bond*, or the loss of this realization, begets nothing in the monolithic fabric of existence, but the annihilation of *self*.¹⁶⁷

¹⁶⁶ ‘*Thing-hood*’, as opposed to autonomous ‘I’, implies a mechanical state, which simply falls beyond our conscious decisions, *i.e.* it is not up to “I” to be dependent or independent from other. See Hegel, *Phenomenology of Spirit*, (1807), *supra* note 2, § 189.

¹⁶⁷ Needless to say, I can only give a very limited summary of Hegel’s assertion here, one that corresponds to my subjective reading of Hegel. A close scrutiny of his contention, however, is, perhaps more than any other time, indispensable today. Some have taken up on Hegel’s claim, like De Beauvoir, in her seminal work *the Second Sex*. But, without over-romanticizing Hegel’s assertion, I think its essence can only be fathomed, once the reader disentangles the core of his argument from the inevitable constraints or by-products of his time, that are reflected in his, *e.g.* rather sexist positions. For many, maybe for De Beauvoir too, reconciling his assertion of self with his manifest sexism has been unthinkable. See, for instance, Simone De Beauvoir, *The Second Sex*, Constance Borde and Sheila Malovany Chevallier trans. (New York, Vintage Books, 2001), pp. 43-44; 99-100; 304-305. Also for an analysis

Whether through projection of the psychic attributes upon 'other'¹⁶⁸ or misunderstanding one's *being* as an independent entity from 'other',¹⁶⁹ a divide is created, a type of disintegration within *self* that gives birth to the phenomenon of *other*. *Other* is indeed born out of the matrix of *self*;¹⁷⁰ *other* can be perceived as an abandoned particle of *self*. The lack of *bond* between the conscious self and the collective unconscious, between the modern *I* and *other* completes the recipe for violence. Various instances of violence testify such a breakdown among the fragments of *self*. However, within the *self* the archetype of *governmentality*, figuratively speaking, is restlessly wakeful and ready to rage, once the *bond* is lost, and the manacle is broken, the violent *hierarchy* rises and ruthlessly destroys. The

that reconciles Hegel's assertion with a feminist standpoint, see Nadine Changfoot, "Feminist Standpoint Theory, Hegel and the Dialectical Self: Shifting the Foundations," (2004) 30(4) *Philosophy and Social Criticism*, pp.477-502.

¹⁶⁸ Jung speaks of this split throughout his work under the notion of 'shadow'—which he refers to as an archetype. "The meeting with oneself is, at first, the meeting with one's own shadow." Jung notes, "The shadow is a tight passage, a narrow door, whose painful constriction no one is spared who goes down to the deep well. But one must learn to know oneself in order to know who one is. For what comes after the door is, surprisingly enough, a boundless expanse full of unprecedented uncertainty, with apparently no inside and no outside, no above and no below, no here and no there, no mine and no thine, no good and no bad. It is the world of water, where all life floats in suspension; where the realm of the sympathetic system, the soul of everything living, begins; where I am indivisibly this *and* that; where I experience the other in myself and the other-than-myself experiences me." See Jung, *the Archetypes*, *supra* note 67 § 45.

¹⁶⁹ One of the corollaries of this misunderstanding is a feeling of insecurity, stemming from the overwhelmingness of the external world, or *other* if you will. In other words, the modern 'I' initially finds itself in an inferior position vis-à-vis *other*. Therefore, driven by fear, 'I' begins to assail and destroy *other*, naïvely hoping to exert and fortify itself. Ironically, this would result in, not reinforcing the insecure 'I', but its destruction. This account may explain some of the heinous atrocities that have occurred throughout history. In light of this critique, it becomes clear why the victims of, say, genocides are typically the most immediate populations to the perpetrators. However, the dialectic of self and its possible connection to violence is a broad philosophic discussion, which I hope to address rigorously elsewhere.

¹⁷⁰ This reminds me of the Abrahamic myths of creation, whose roots can be sought in non-Abrahamic ancient narratives. In the biblical account of genesis, Eve is created from one of the ribs of Adam. In a Koranic verse, this notion is mentioned in an even more explicit fashion: "He it is Who created you from a single Being [Self], and of the same Self, did He make a pair, that they settle one another" (7: 189) The translation (from the original scripture) is mine. Countless interpretations can be given to explicate this verse, the meaning of 'settle', the unity of self, and so on and so forth, which are not at issue here. It must be, however, noted that the Hegelian *Dasein* (*Being* of beings), the self-consciousness that sees itself in other, and the Jungian self all parallel with the Self in this verse. The desired settlement of men and women implies a state of chaos and turmoil between them, one that is created upon the bifurcation of *Being* into men and women. This notion is strangely similar to a neurosis, caused by disintegration of self that Jung and others have discussed.

hierarchy cannot care, once the *bond* is fragmented. Lack of *bond* seals the fate of *self*. But this realization, this consciousness, is neither simple to attain nor easy to maintain. Sometimes a moment of epiphany like seeing yourself in the eyes of the enemy can revive it. Sometimes amid the age-old traditions and teachings, one can *see* rays of this reality. Perhaps through rigorous contemplation, intuition, or exposure to the diverse reality of life, the eyes of the beholder can be awakened to this. Whatever the case, it does not come like a piece of cake. But it is only under this perception that a critical conclusion can be made, that *self* is the sole subject of violence. Whenever violence transpires, it is the *self* that is the *victim*. Sometimes, in the absence of means of [expressing] *governmentality*, self-destructive behaviors like suicide may occur; sometimes when the *split*—between conscious and unconscious—is complete and external means of [evincing] *governmentality* is at hand, a judge may render an unfair and arbitrary decision to kill, or a president may order launching missiles—while eating a piece of chocolate cake. Whether one commits suicide or the state executes, whether the environment is damaged or a bullet is fired to kill, it is always the *self*, upon which violence is inflicted. In the following section, I will explore this assertion through an aesthetic lens, in *Gallows* and other pertinent works.

F. Lack of Bond in Gallows

Throughout the narrative, the notion of [lack of] *bond* is illustrated, in both covert and explicit fashions. Lack of *bond* is the link of chain, or a unifying theme if you will, that connects the segments of the story. Let us begin from the earliest stages of *Gallows*, where the main character's childhood is depicted. She, similar to everyone else in her town, goes to a single-sex school. This is the norm in many societies, to further explicit and implicit policies. But

beyond the pros¹⁷¹ and cons¹⁷² of such systems, it is unequivocal that a single-sex educational system is a fertile terrain for sowing the seeds of gender essentialism. In the absence of physical and intellectual contact with the opposite sex, attributes of the opposite sex would be simply forgotten or interred in the unconscious if you will. Therefore, the inescapable, and sometimes desired, fruit of such an educational system would be men and women, who are [systematically coerced to become] alienated from one another. This process, however, is not particularly at issue here; hence a brief observation acknowledging this mechanism would suffice.

Another setting within which the *bond* is repeatedly broken is the child wife's family. Clearly, her parents, overwhelmed by the expectations of their society,¹⁷³ cannot *see* the world from their child's eyes. Parental care and concern for the child's happiness are substituted with the fear-oriented obedience to marriage customs. A similar notion is depicted in Tony Kaye's powerful *Detachment*,¹⁷⁴ wherein a young talented girl named

¹⁷¹ Single-sex education has its proponents, for instance, some argue that such a system can provide a fair-minded learning environment for girls, wherein the teachers' attention is not solely paid to boys, who [stereo] typically excel in subjects like math. Therefore, girls would receive a *fair* amount of attention that they deserve in single-sex classrooms. See Myra Sadker & David Miller Sadker, *Failing at Fairness: How Our Schools Cheat Girls*, (New York, Simon & Schuster, 1995). Another type of argument, supporting single-sex education focuses on the [purported] differences between boys and girls, and that a successful system must be tailored to the idiosyncrasies of its audience. See, Gurian, Michael, Henley, Patricia, and Trueman, Terry, *Boys and Girls Learn Differently: A Guide for Teachers and Parents*, 1st ed. (San Francisco, Jossey-Bass, 2001).

¹⁷² The opponents, on the other hand, draw their critiques on a wide range of subjects. For example, the similarity between single-sex education and single-race education, and its psycho-sociological outcomes, are invoked to criticize such systems. See, Jack M. Balkin, "Is There a Slippery Slope from Single-Sex Education to Single-Race Education?," (2002) 37 *the Journal of Blacks in Higher Education*, pp. 126-27. Others have argued that coeducational systems may be more successful in fostering inter-subjective understandings that can reduce the gap between boys and girls. See Lise Eliot, *Pink Brain, Blue Brain: How Small Differences Grow into Troublesome Gaps--and What We Can Do about It*, (Boston, Houghton Mifflin Harcourt, 2009).

¹⁷³ Mindless submission to traditions may be a manifestation of *governmentality*: to submit to a superior power out of fear, a primal inclination in humankind passed on transgenerationally.

¹⁷⁴ Tony Kaye, *Detachment*, (Film, USA, 2011)

Meredith, after finding herself frequently dismissed and scolded by her father, and ultimately abandoned by her school teacher,¹⁷⁵ is detached from everyone and everything in her surroundings. *Detachment* renders a person insignificant; it cuts apart all the ties that give meaning to one's life. The lack of *bond* inflicted an unbearable pain upon her that she did not survive. She committed suicide, or fell apart if you will. The outcome of a process like this may be delayed, or perhaps transformed into an external act of violence, but never evaded.

In the language of art, metaphors speak louder than clichéd images; in one of the scenes in *Gallows*, the hands of the couple are mockingly depicted in distinct forms, a manly hand holding a fragile hand of a child to celebrate the *bond* of marriage! The bogus *bond*, however, was transient, lasting merely long enough to fulfill the reasons of forging the marriage.¹⁷⁶ The *bond*, which was weakened through lack of intimacy between the two, was ultimately broken by her first husband, perhaps in part due to a fear or incapability of forming and maintaining a connection. In the same vein, Gilligan, for instance, points out that “as women imagine the activities through which relationships are woven and connection sustained, the world of intimacy—which appears so mysterious and dangerous to men—comes instead to appear increasingly coherent and safe”.¹⁷⁷ The fear of intimacy is itself a

¹⁷⁵ The school teacher, Henry, initially tries to help her, but due to the fact that he is a man and therefore spending time with Meredith would sound inappropriate; he reluctantly withdraws from listening to her to avoid the bitter judgementality of his colleagues.

¹⁷⁶ The motive behind forcing the girl into the marriage, which is not particularly at issue in my argument, might have been establishing a *hierarchy* between a man and a woman, stemming from an unconscious urge. This may explain why the breakdown of marriage happened once it was consummated. In the context of a traditional society, divorcing the girl was indeed in harmony with an exercise of hierarchical power over her, since there is virtually no shame whatsoever attributed to the male spouse after divorce, whereas an unbearable fate would virtually always befall the divorcée.

¹⁷⁷ Gilligan, *In a Different Voice*, *supra* note 152, p. 43.

sign of immaturity among the men of *Gallows*. Seldom have they, too, been exposed to the opposite sex; they cannot realize their own feminine *self*. The unknown, of course, is the source of the age-long misoneism.¹⁷⁸ The incongruous and forcible juxtaposition of the child with her cousin is depicted, metaphorically, in the shape of the two birds, about which I have written earlier. The cage, in those frames, represents the crow's possessiveness, but more importantly the painful isolation of the child wife. The marriage not only failed to generate any *bond* between them, but also secluded her from the outside world, where she could perhaps receive minimal care. Once married, she could not find any consolation to her pain. Also, the bedroom that could deepen the *bond* between them became somewhere she always wished to escape from. But the window, through which she imagined her liberation, did not open to *the temple of libertas*, but yet another cage. This time, the entire town became where she felt deserted and hallow. Alien in her own town, instead of care and support, she was given but the spike of people's gaze. Drawing this frame, I was impressed, I think, by Edvard Munch's *Der Schrei der Natur* (English: *The Scream of Nature*).¹⁷⁹ Although Munch's work may convey an initial impression that the subject is screaming, it is in fact the Nature that screams; "As he [Munch] later described it, the "air turned to blood" and the "faces of my comrades became a garish yellow-white." Vibrating in his ears he heard "a huge endless

¹⁷⁸ Notions denoting a fear of this kind have been discussed extensively in various fields. Freud, for instance, maintains that: "The tendency arises to dissociate from the ego everything which can give rise to pain, to cast it out and create a pure pleasure-ego, in contrast to a threatening 'outside', not-self." Sigmund Freud, *Civilization and its Discontents*, trans. & ed. by James Strachey (New York, W. W. Norton & Company Inc., 1962), p. 14. Jung, similarly, expounding on the archetype of shadow, explains: "But if we step through the door of the shadow we discover with terror that we are the objects of unseen factors. To know this is decidedly unpleasant, for nothing is more disillusioning than the discovery of our own inadequacy. It can even give rise to primitive panic, because, instead of being believed in, the anxiously guarded supremacy of consciousness—which is in truth one of the secrets of human success—is questioned in the most dangerous way." Jung, *the Archetypes*, *supra* note 67, § 49.

¹⁷⁹ See *Hierarchy in Gallows*, pp. 56-95.

scream course through nature.”¹⁸⁰ I imagined that an unbearable and deafening scream could have similarly pierced into her ears. Detached from the strange man, her parents, and her town, she withdrew into silence, docilely obeying what she was thereafter told.

Lack of connection with the very persons, from whom she would expect care and love, was compounded by having to go to a city, much bigger and, I assume, distressing and frightening. One could argue that living in the big city of Shiraz, could alleviate her suffering. After all, the stigma and the shame pertaining to her divorce could have been avoided in the city. On a superficial account, it may appear sensible. But upon reflection, one must bear in mind that forging a new identity, living a new life is not simple. Although our numbing language may so imply, it is not as simple as turning a page of the book of life. It can mean—as it did for her—denying part of one’s life story, part of self; it may bring some serenity to the surface, but deep in the ocean of unconscious it creates yet another divide between a feigned ego and self. The process gives birth to *other*, which in this case coincides corporeally with the individual herself. This lack of integrity, or lack of *bond* among fragments of self, exacerbated her isolation; she was, literally, self-alienated. The split between her ego and the unconscious engendered a trauma that could not *heal* easily.¹⁸¹ The corollaries of this split are manifest throughout the narrative. In her anxious look lies the overwhelming terror of

¹⁸⁰ See *Art Analysis: Meaning of The Scream by Edvard Munch*, available online at:

<http://www.edvardmunch.org/link.jsp>

¹⁸¹ The split has rigorously been scrutinized in psychoanalysis. For instance, see, Gerhard Adler, “The Split between the Conscious and Unconscious and its Resolution” in *The Living Symbol: A Case Study in the Process of Individuation*, (Pantheon Books, New York: 1961), pp. 19-26. Elsewhere, Jung notes that, “integration of the unconscious invariably has a healing effect.” Also, the word ‘heal’ in English, interestingly shares an Indo-Iranian origin, with the term ‘whole’, (in Farsi *هال* /ha:l/—which must not be confused with *حل*, which is of a Semitic (or perhaps Aramaic) origin). These terms, etymologically speaking, signify a state of peace, emerging out of coming into a whole. One may also draw a parallel with a verse in Koran 7: 189 in *supra* note 170.

confronting her divided self. But she is not alone in her act; surrounded by strangers, everyone is lost in the story. The first lines of Albert Camus' sublime *L'Étranger*, I imagine, connotes a similar notion of apathy, wherein he verbalizes this eerie split: "MOTHER died today. Or, maybe, yesterday; I can't be sure. The telegram from the Home says: YOUR MOTHER PASSED AWAY. FUNERAL TOMORROW. DEEP SYMPATHY. Which leaves the matter doubtful; it could have been yesterday".¹⁸² The second husband in *Gallows*, identical to *the Stranger's* Meursault, smokes a cigarette, while sitting indifferently next to the body of the just-raped child wife. Meursault, similarly, says: "I wasn't sure if I should smoke, under the circumstances—in Mother's presence. I thought it over; really, it didn't seem to matter, so I offered the keeper a cigarette, and we both smoked".¹⁸³ The bedroom, once again, instead of an intersection of the two selves, becomes the slaughterhouse of *bonds*, where the frail ties, are neither revived nor healed, but severed. Each time she was battered, this man became more *alien* to her,¹⁸⁴ so did she to herself. It is always easier to perpetrate violence against other; but what if other and self are both transpired in one body? This may explain why she frequently considered committing suicide, when the *bond* within is broken, and the attributes of self are not yet projected upon others, she could only inflict pain upon herself.¹⁸⁵

¹⁸² Albert Camus, *the Stranger*, (New York, Vintage Book, 1946), p. 4.

¹⁸³ Camus, *The Stranger*, *supra* note 182, p. 8.

¹⁸⁴ The terms alien and else are derived from the Latin root of *alius* (English: other); there also exists an archaic Persian word, with a very similar pronunciation: /ha:le/, meaning someone whose being is [or has become] villainous. I am, however, not totally certain whether it shares its root with the Latin *alius*, simply because I did not find any evidence after extensive research, but I did not find any contradicting etymological evidence either. However, the Proto-Indo-European root of alien is also pronounced—strangely—similarly to the Farsi term: /hélyeh/, which may strengthen my hypothesis. Given the psychological connotation of the old Farsi term, and the observations I have thus far made, one can imagine that perhaps the term *alien*, like a rich repository of human knowledge, has been carrying some of the profound notions that I have, inadequately, attempted to explain.

¹⁸⁵ This observation may parallel and also shed light on some of the causes of the disproportionately-high rate of suicide among Indigenous Peoples in Canada. They have been systematically alienated from their own culture, language, teachings, and the like. They also experience a high degree of physical and social isolation in modern cities.

However, from her perspective, one can see that she ultimately—and unconsciously—externalized the other that was born out of herself. But from the perspective of, say, her husband, the split was already there, alienating her to him.

She did not make a choice, I believe, between committing suicide and murdering her husband. She did both. In a sense, she killed a part of herself, murdering the man whom she never *knew*.¹⁸⁶ Also her execution was perhaps the ultimate suffering she, unconsciously, wanted to impose upon herself. As though, the entire legal system, the laws, the court's decision, and so forth were to satisfy, what she demanded; the *mise en scène* was flawlessly arranged and the scenario was perfectly directed by her unconscious. But this view might be one-sided. The two incidents—of murder and execution—can also be *seen* identical from other angles. This is why, in *Gallows*, the two scenes of murder and execution, are depicted in a conjoined fashion, to suggest a sense of commonality between the two occurrences. If *self*—perceived within the framework that I explained—is the sole subject of violence, there can be no difference between capital punishment—when state kills an externalized fragment of itself—and murder—where the perpetrator does the same against the victim—within

Compounded with these, is the overwhelming demands of modern life that leave little room for maintaining a notion of *self* that has been developed through worldviews, which fundamentally differ from that of the European Settlers.

¹⁸⁶ I think it is plausible to assume that a murder by strangulation, as opposed to other methods, indicates a more immediate projection of self attributes upon other, whereas a remote projection may correlate with the use of other methods, *e.g.* a weapon, drones, and the like. If one suffocates the victim to death, they may *see* the victim—unconsciously—as an extension of themselves. Firing a gun against a person, on the other hand, is a more fitting choice against a separate entity. It is then not surprising, but quite expected, to know that asphyxia and suffocation are said to be the most common methods of filicide. In a study on child homicide by parents in Chile, the findings of the research confirm this assertion. “The most common method used to commit filicide”, the results indicate, “was asphyxia/suffocation (34.4%)”. The study also suggests that, “regarding the method used in the filicide, fathers tended to use a weapon or to cause trauma to the victim, whereas mothers tended to use asphyxia/suffocation and neglect”. See Benítez-Borrego, Guardia-Olmos, & Aliaga-Moore, “Child Homicide by Parents in Chile: A gender-based Study and Analysis of Post-filicide Attempted Suicide,” (2013) 36(1) *International Journal of Law and Psychiatry*, pp. 59-62.

such an ontological framework; but political regimes are far from enjoying such insight.¹⁸⁷ Moreover, one must not overlook the unique role of every individual who was involved in the story. Violence can be perceived from their unique perspectives. The murder and the death penalty, both instances of violence, can be seen as distinct forms of violence perpetrated against parts self: the selves of every character in *Gallows*. For example, the judge, representing the State, killed parts of himself by issuing the verdict, parts of himself with which he had lost connection, and he encounters in the girl's eyes. Finally, at the risk of repeating myself, I would wish to finish this section, by further explaining the last scene. I was told by one of the lawyers of the case that almost everyone at the scaffold was weeping, including the judge himself, whose dazzled eyes could not bear watching the theatrical punishment, which was to a large extent directed by himself. What the main cause of their sorrow was, I am uncertain, but I can imagine that once one is put face-à-face with the unknown and the eerie part of self, once one has participated in slaying themselves, weeping tears to the elegy of self-annihilation is but normal. But the multitude could not *see* her as part of themselves, for if they could, they would not murder. But nothing remains invisible to the unconscious that silently *sees* and brings tears to the eyes of the absent-minded who register the condemnation of self.

¹⁸⁷ I will touch upon this assertion in part three.

G. Conclusion

There is no doubt that investigating the complex question of violence requires extensive research and analysis and my rather brief conceptualization will prove inadequate in the face of numberless instances of violence. Nevertheless, I humbly maintain that wherever violence transpires and blood spills, amid the ferocity of aggression, one can discern vestiges of both *hierarchy* and *lack of bond*. However, it is usually not easy to disentangle the two; it is precisely the *amalgamation* of *hierarchy* and lack of *bond* that begets violence, or to put it differently, violence is the inescapable corollary of the ominous marriage between *hierarchy* and lack of *bond*. The marriage, however, is inevitable and destined, if we avert our eyes from either. In fact, as I have noted in the introduction, the two interact and intermingle with one another, and one may—under certain circumstances—give rise to the other. Overwhelming hierarchies can yield lack of *bond*, and on the other hand, lack of *bond* can automatically—and unconsciously—beget violent hierarchies. Nonetheless, [the physical manifestation of] violence cannot occur without either elements; mere lack of *bond*, without physical expression of *governmentality*, will not result in violence.¹⁸⁸ On the other hand, physical expressions of *governmentality*, *i.e.* hierarchical

¹⁸⁸ One may argue that suicide is a form of violence without a physical expression of *hierarchy*. This, however, would be inaccurate. In fact, suicide occurs when the perpetrator, for various reasons, exercises hierarchical power over their own body—perhaps the only immediately-available and possible subject for *governmentality*'s manifestation. Another important issue regarding violence and physical expressions of *hierarchy* is that legal proscriptions and sanctions, in an overwhelming majority of legal systems, have been typically focusing on controlling and punishing the physical manifestations of *governmentality*. Economic and political embargos, disarmament, non-proliferation treaties, detentions, punishments, and the like, primarily aim at either eliminating the means of expressing *governmentality* or sanctioning violent expressions of *hierarchy*. The irony, however, is that an all-pervasive control over the means of expressing *governmentality* is unattainable. Such measures are, alas, like sand dams built with the naïve hope of bringing oceanic tides under control. In fact, materialization of *hierarchy* does not occur in complex fashions; violence does not require much to transpire. For *governmentality*'s reification, a moment will suffice; an explosive substance found in toothpaste is enough for a suicide attack and the suicide attack can yield the same result that a state-of-the-art ballistic missile does. Of course, this is not to deny that certain means of violence can amplify the madness of *governmentality*. The problem, however, is not the mere expression of *governmentality*, but its absolute dominance

structures as such, so long as they do not obliterate *bonds*, do not generate violence.¹⁸⁹ Thus, certain hierarchical structures—such as *laws* conceived as *walls*—appear to be antithetical to *bond* and the beautiful harmony it can create. Therefore, such laws, for being inherently inconsistent with *bond*, cannot rid humanity of violence; on the contrary, they fan the flames of violence, for they are violent hierarchies themselves. They become counter-productive to safety and security, since they obliterate—and do not generate or revive—*bond*, while their proponents ironically and naïvely claim to bring security for people. In what follows, I will scrutinize a few examples of such laws, nonetheless one can think of numerous instances of such laws in both the contemporary world and antiquity. However, the symbiotic relationship between *governmentality* and *bond* does not mean that they are one. The two are sides of the same coin [of violence], closely interacting with one another, yet represented in distinctive fashions.

Therefore, to illuminate the equivocal nature of the relationship between the two, I think it is necessary and relevant to revisit both concepts, in order to clarify their attributes,

over other attributes of mankind. The overemphasis of law on controlling and punishing expressions of *governmentality*, which is compounded with evading the ocean of human complexity, is perhaps a sign of its immaturity, or its short-sightedness. Law, in a sense, resembles the measures taken by the caveman to protect himself, not through generating and fostering bonds, but division. Therefore, it is then not surprising to know that the first term which was used in Ancient Greece to refer to law, *i.e.* *kanon* (Ancient Greek: κανών)—which is still used in many languages like English, Farsi, Arabic, etc.—also meant *wall*. It may perhaps signify the insecurity, or the immaturity, that has been giving rise to, at least some of, the laws; the legal and political landscape of the so-called civilized world is more or less defined by such *walls*. The ancient immature prescription to overcome mankind's insecurity is still embedded in the deepest layers of the most modern laws. For those who see beyond materiality of history, there exists clear linkage between the *walls* of city-states and the *laws* of modern era.

¹⁸⁹ Therefore, it can be argued that ridding humanity of violence—should it be a plausible predicate at all—is merely thinkable in a state of *harmony* among various attributes of mankind, including *governmentality*. *Governmentality*, throughout the age-old stages of evolution, has perhaps been the most practical attribute of man for his survival. Its strengths and limits must be brought under scrutiny in order to be well-placed in the orchestra of life. However, the lethal forces of *governmentality* can only be harnessed once it operates in an aesthetic polyphony with other constituent elements of *being*. The aesthetic equilibrium, the *beautiful* harmony, which is both delicate and tremendously difficult to retain, can transpire once the *bond* among all members of the concert is cherished. This observation necessitates an aesthetic critique of law, on which I have noted earlier.

in an attempt to perhaps give a clear definition of both. Firstly, one must bear in mind that both concepts refer to psychic attributes, although they both have physical manifestations. *Hierarchy* is the physical manifestation of *governmentality*. The archetype of *governmentality*, as noted earlier, reifies itself in various fashions. Some laws, for instance, are physical, or to be more precise lexical, expressions of *governmentality*. Such laws are impressed by this archetype in a rather vivid fashion. Article 630 of the *Islamic Penal Code* of Iran is a shining instance of an archetypal manifestation of *governmentality*. The article provides that: “Whenever a man sees his wife committing *zina* [English: adultery] with another man, should he know that his wife is consensual, he can kill both of them in the same position; however, if the wife is coerced, he may only kill the man. The same rule applies to assault and battery”.¹⁹⁰ This article is, in a sense, a summation of my argument for lethal *governmentality*. It would not be outlandish to claim that those who have penned the article, jurists or Faqihs (Jurists of the Islamic Jurisprudence), have been impressed by an overwhelming force operating in their unconscious minds. Particularly, once the archaic act of copulation is involved the insecurity, engraved in the collective memory of man, is evoked. The unconscious memory vividly recollects the violence that coincided for—not a few hundred or thousand years but—millennia during copulation and expresses itself in the wording of the provision. The emphasis of the legislators in their permission for murder, on

¹⁹⁰ This article is known as “the murder in bed” (Farsi: قتل در فراش) in Fiqh and Islamic jurisprudence. It must be noted that the perpetrator, in some cases, *may* still be punished, nonetheless he will benefit from extraordinary extenuating circumstances. Until 1982, *the murder in bed* was considered as an absolute exculpatory ground. Although it may be inferred that it is still the case, the burden of proof on the murderer makes it difficult to substantiate the criteria of the article. Moreover, some judges still sentence the perpetrator to some punishments—at the discretion of the judge, called *Tazir*—based on, for instance, disturbing public order and other grounds. However, what matters most is the somewhat prescriptive tone of the article, which positively allows for murder. Had the law-makers adopted a neutral tone, the article could have been perhaps articulated differently, *e.g.* “[...] should the man murder the wife or the other man, he will not be executed”. In the end, it must be added that the application of the article in the Iranian Legal System is virtually nonexistent; this is, nonetheless, beside the point.

“*in the same position*”, may appear to be a rather bizarre language, but perhaps in the light of my argument, some aspects of this choice of vocabulary might become clear. In other words, one can argue that conceiving of a situation where *the man’s wife* engages in sex with *another man* triggers the psychic attribute of *governmentality* that was precisely born, as I have extensively argued, out of the archaic copulatory posture. The eerie juxtaposition of sex with killing in this article can be well explained in the light of *governmentality* and its materialization. However, the most significant point, from a moral and legal perspective, is the impunity for the perpetrator of murder in the context of sexual affairs. Nonetheless, it must be noted that the impunity, I’d argue, is only ostensibly pertaining to the husband, and in truth, the article is defending the essence of a mindset that is verbalized in the guise of law. Law, in this context, becomes a shield not for protecting the victim, but for safeguarding the archaic mentality that has given rise to the law itself. There exist examples galore substantiating the archetype of *governmentality* in laws;¹⁹¹ another classic example found in Islamic jurisprudence is a general impunity for the father (or paternal grandfathers),

¹⁹¹ Some may simplify these provisions as patriarchal expressions of law, and it can therefore be said that there is nothing novel in my assertion. However, as I have already argued in the previous chapter, *governmentality* is an agendered attribute, existing in all sexes, and manifested in some individuals in a more expressive manner than others. Attributing *governmentality* to a certain sex is a misconception. Moreover, such legal protections for parents in the case infanticide are not particular to fathers; in fact, mothers, too, may benefit from such legal leniency in various contexts. In the *Swiss Criminal Code* (1937), for instance, article 116 provides that: “If a mother kills her child either during delivery or while she is under the influence of the effects of giving birth, she is liable to a custodial sentence not exceeding three years or to a monetary penalty”; Section 1(1) of the *Infanticide Act* (1938) of England and Wales is another example. In Lebanon (art. 551 *Lebanese Criminal Code*, 1943), there is a similar provision for mothers murdering their babies. Although the bases for each of these provisions are different—and can be discussed separately—a common rationale can be cautiously inferred: parental infanticide is, in numerous contexts, either tolerated or at least dealt differently in laws, and perhaps *governmentality*, *inter alia*, can partially explain such legal expressions. In the animal kingdom, for both biological and psychological reasons, paternal and maternal infanticides are but common. Parental infanticides among animals have been rigorously demonstrated in research. An extensive study in 2008 demonstrated commonalities and similarities between porcine maternal infanticide and that of humans. See Claire R. Quilter, *et al.* “Gene expression profiling in porcine maternal infanticide: A Model for Puerperal Psychosis,” (2008) 147B (7) *American Journal of Medical Genetics*, pp. 1126–1137. Therefore, to explain a conduct of this kind, which can be committed by humans (both male and female) and animals, there must exist a comprehensive element, which can neither be reduced to laws, nor a gender category.

entrenched in criminal law, in the case of committing a crime—punishable by *Qisas* (English: retribution)—against his children. Article 301 of the *Islamic Penal Code* expresses that *Qisas* is required only if the perpetrator is not the father or the paternal forefather of the victim.¹⁹² I think these articles—alongside many other legal provisions—are formalizations of *governmentality*, but as I implied earlier, some manifestations [of *governmentality*] are explicit but most are camouflaged in the obscurity of human language and conduct.¹⁹³ Overregulation, for example, is an explicit illustration of *hierarchy* and sitting in a corner of a café—in order to keep everything within the limits of sight, the way a hunter would do—is an implicit instance of *governmentality*, both stemming from unconscious insecurities. Closely bound up with insecurity, in various legal and political contexts, is lack of *bond*. In fact, insecurity correlates—and perhaps coincides—with lack of *bond*.

But what is lack of *bond* after all? In the previous chapter I scrutinized this concept in a rather negative manner, *i.e.* through exploring the failure and breakdown of a connection between and within individuals. What convinced me to adopt a negative approach was the nature of violence whose precondition is *lack of bond*. I criticized various explanations, ranging from physical distance to relational connection, in order to prepare myself to

¹⁹² This article was amended in 2013. The previous provision, ratified twenty-two years before the new law was passed, had a similar tone to article 630, *i.e.* a rather prescriptive and permissive language. The article stated: “Should a father or a paternal forefather murder his child, he shall not be retributed but sentenced to pay the blood-money to the inheritor (of the murdered) and *tazir*.” N.B. the father, or the ancestor, who commits the crime could not inherit, due to committing a murder, from the child. See Article 220, *Islamic Penal Code*, 1989.

¹⁹³ Here, various manifestations of *governmentality* are not at issue per se; separate rigorous discussions are required to examine materializations of this psychic attribute. The critical issue, however, is avoiding a moral assessment of *governmentality*. Archetypes, including *governmentality*, are neutral; however, they may become evil in certain contexts. The relationship between man and nature, specifically animals, might be an expression of *governmentality*. Domestication, hunting, and even keeping pets can be understood within the paradigm of human *governmentality*. The evil, nonetheless, can emerge out of excessive submission to this archetype, when *owning* a pet merely satisfies the unconscious need for dominance, and not the original needs necessitating coexistence of mankind and animals. I hope that future studies unveil the reality of this archetype and its rather obscure manifestations.

examine lack of *bond* in the psychic realm. But here I would like to clarify the concept of *bond*, in a positive and hopefully rigorous fashion. *Bond* is a fragile state of mind, predicated upon realization, an insight, or a consciousness, that witnesses an existential interdependence and cosmic commonalities among beings. Before I expound on the components of this definition, I must admit with certitude that any attempt to define *bond* will inevitably reduce its meaning to a philosophic and linguistic delineation. I am well aware of the fact that *bond*—which I wish to explain through my inadequate knowledge and language—has been experienced and lived by many at an intuitive level, whereby one can contentedly forgo the limits of reason and definitionalism. What I strive to define within my academic means here has been profoundly appreciated in its true sense by many peoples and persons throughout the course of history. For instance, Najm al-Din Razi, a 12th Century Iranian poet and mystic, says:

“A version of Divine Letter—You are
A mirror reflecting the Lordly sublime,
Not out of you exists *everything* in the Universe,
Quest within, all you yearn for—You are.”¹⁹⁴

I must now breakdown the elements of my proposed definition and revisit its components. Firstly, I have suggested that *bond* is a *fragile* mind frame, whereby I intended

¹⁹⁴ Although this poem is publicly attributed to Rumi, “Quatrain 1757,” in *Diwan-e Shams* (English: *Great Work*), (13th Century), it has first appeared in *Mersad ol-Ebad* (12th Century) (For English see: *The Path of God's Bondsmen: From Origin to Return*, (Islamic Publications International, North Haledon, New Jersey: 1980)). Poem's translation is mine. It took thousands of years of arduous work for astrophysics to acquire knowledge of the Universe and its most abundant constituent elements, which coincide with that of humans. Neil Degrease Tyson, a well-known astrophysicist once famously said: “We learned in the last 50 years, that of course not only do we exist in the universe, it is the universe itself that exists within us.” He called this discovery ‘an enlightening and ennobling association [between us and the universe]’. It is indeed an ‘almost spiritual’ revelation, a gift made possible by science for mankind. This is not, of course, to romanticise Razi's poem, and undermine scientific achievements, on the contrary, it is to assert that such wisdom is accessible to humans both through science and—what for lack of a better term I call—intuition. For Tyson's explanation see: <https://www.youtube.com/watch?v=2rY1atSks2o>

to signify its elusiveness. Humans are still—for ongoing experiences of suffering and their archaic memory of fear—insecure animals. It is therefore not easy to constantly retain such a state of mind. Fear, for instance, can instantaneously rekindle the primordial images of gory cudgels,¹⁹⁵ in the unconscious of *Homo insecureus*. As the phantom of terror rises, vanishes the *bond*, this tenuous frame of mind.¹⁹⁶ But to preclude violence an ephemeral moment of epiphany will suffice, therefore I have utilized ‘a fragile state of mind’, not an attitude, in my definition. However, an abiding attitude is doubtlessly a more viable remedy for violence.¹⁹⁷ This attitude, or state of mind, can be founded upon cognizance or a consciousness that allows for a kind of wisdom whereby the beholder can realize and *see* all beings in a different fashion, in an interconnected unity. I have used the verb ‘witness’ in my definition, since I believe that such wisdom is not a naïve aspiration, but a truthful fact, to which the eyes of the beholder may be awakened. ‘To witness’ implies an exploration, or a revelation, when the veil of secrecy is lifted, and it stands in contrast to the act of forging knowledge. To some, this proposition, I assume, might appear to be an unrealistic and romantic vision or perhaps a chimera that may never actualize. Thus, I wish to concretize this assertion by invoking a

¹⁹⁵ This is perhaps why almost everyone, at an uncanny but intimate level, can relate to the splendid images at the beginning of Stanley Kubrick’s *2001: A Space Odyssey*, wherein the fearful primitive man, at *the Dawn of Man*, learns how to wield bones and cudgels to slay fellows of their kind. See Stanley Kubrick, “the Dawn of Man” in *2001: A Space Odyssey*, (Film, USA, 1968), up to 20’.

¹⁹⁶ The frailty of such a state of mind can be overcome once an *attitude* is developed, in lieu of a fragile mind frame. Developing an attitude is, I’d argue, not possible by utilizing mere rational faculties of human. In fact, reason too often fails in the face of intimidation and in the absence of reason, humans resort to their most immediate, and of course most archaic, attribute, *i.e. governmentality* and the violence thereof. In order to build a world based on *bond*, humans must first overcome their insecurity, and this is only possible once this state of mind evolves into an attitude. Security is possible not only through building hierarchical structures, but developing and fostering bonds with one another. This reveals the inconsistent nature of *hierarchy*, and its political and legal progenies, as the sole means for security. For the limits of reason and generally see: Hugo Mercier, Dan Sperber, *The Enigma of Reason*, (Cambridge, Harvard University Press, 2017).

¹⁹⁷ The transmutation of a transient state of mind into a lifelong attitude can perhaps be discussed in a separate study. The role of arts, as opposed to reason, for instance, in sustaining such an attitude may be worth pondering upon.

psychoanalytic concept, merely as an example which demonstrates the feasibility of this claim.¹⁹⁸ Based on the notion of collective psyche of mankind, the collective unconscious is the repository of *all* attributes of human beings, wherein we share *all* the common traits of beings, human and animal, living and inorganic, which of course reside far beyond our immediate consciousness. Nonetheless, if this contention is defensible—as I have so argued—it means that the attributes of even the most distant, of what we consider, ‘other’ exist in our unconscious. In other words, we share in our collective psyche the attributes of everything that we think we are *not*! This may sound too radical an assertion to some, but it is a matter of fact. This assertion is indeed in concert with scientific evidence,¹⁹⁹ not to mention our intuitive wisdom. The process of integrating the unconscious into the conscious, and incorporating such seemingly-alien attributes, and re-*bonding* with the unconscious, is called *individuation*,²⁰⁰ an excruciating and gruesome process to become a whole and heal, which not everyone can undergo in their lives.

In order to further clarify this notion, I wish to entertain an example that is, in my eyes, pertinent to the problem of violence. In so doing, I will refer to an artist, who unlike

¹⁹⁸ I have already discussed a Hegelian argument that makes this assertion possible in a quite arithmetic and logical fashion. See, *The Genesis of Other from the Matrix of Self*, pp. 89-90.

¹⁹⁹ A simple, but profound, scientific ground supporting this argument is the pattern of life, *i.e.* our DNA, which is largely identical among *all* living things. If idiosyncrasies of humans have been enchanting philosophers, the commonality between our DNA and other forms of life has enthralled scientists. Humans and, for instance, chimpanzees are largely—and to a disturbing point for many—alike: 98.8 percent of our DNA is identical. Another scientific proof for this assertion can be found in psychoanalytical facts, gathered during rigorous clinical studies. Jung, in his book *Man and his Symbols*, talks about a ‘bush soul’ of man and its concept where man and a crocodile or a tree, for instance, are related, or as he writes, are “brothers”. See Carl G. Jung, *Man and his Symbols*, *supra* note 64, pp. 24-25.

²⁰⁰ For a full analysis of individuation see: Gerhard Adler, *The Living Symbols: A Case Study in the Process of Individuation*, (New York, Pantheon Books Inc., 1961); M. L. von Franz, “The Process of Individuation”, in *Man and his Symbols*, *supra* note 64, pp. 158-229.

many, for being endowed with the faculty of imagination, can *see* well beyond the conscious of mankind. In the first lines of his sublime and celebrated novella, *Metamorphosis*, Franz Kafka writes:

“When Gregor Samsa woke one morning from troubled dreams, he found himself transformed right there in his bed into some sort of monstrous insect. He was lying on his back—which was hard, like a carapace—and when he raised his head a little he saw his curved brown belly segmented by rigid arches atop which the blanket, already slipping, was just barely managing to cling. His many legs, pitifully thin compared to the rest of him, waved helplessly before his eyes.”²⁰¹

Gregor, after having grappled with his novel and rather limited locomotion, managed to open the door of his room to catch an eight-o’clock train; right upon encounter with his family, however, his father—who did no longer resemble a father—repulsed and petrified by Gregor’s grotesque mien, drove him back to his room to temporarily benumb the family’s troubled conscience. Since then, Gregor spent endless hours of day and night, beneath a settee in his room, awaiting his sister—who always immediately after entering the room raced to the window and opened it no matter how cold it was, as though she would ‘suffocate’ in Gregor’s room—to bring him leftovers, or a feast to which Gregor would shed tears of gratification. It did not take long for the family to undergo financial hardship, for their only breadwinner had now transmogrified into a human-insect creature—who would enjoy not only listening to his sister play violin but also scuttling in the dust and dirt of his now abandoned room. Estranged Gregor, whose wish to be consoled by his bourgeois family morphed into his isolation, was once bombarded with apples by his father. “This wound cost

²⁰¹ The novella was completed in 1912, a few years after Kafka had accomplished his law degree. The translation I have used is a recent version by Bernofsky. See, Franz Kafka, *Metamorphosis*, Susan Bernofsky trans. (New York, W. W. Norton & Company, 2014), p. 21.

Gregor some of his mobility”,²⁰² and crippled him for good “like an old invalid.”²⁰³ Finally the tormenting life of Gregor, now referred to by ‘it’ instead of ‘him’, is axed by his sister, who not long ago brought him sweet milk and white bread perhaps “in her [what I think was vanishing] kindness”.²⁰⁴

What happened to Gregor “was no dream”;²⁰⁵ it was a *real* journey, “a forced awareness of what we really are,” an “irreversible and mandatory” reality.²⁰⁶ The journey on the wings of imagination, in the twinkling of an eye, took Kafka to the farthest layers of unconscious, wherein time dilutes and the past the future amalgam in the elixir of imagination. It is hard to resist an uncanny—and of course disturbing—analogy between Gregor, whose physical condition yielded his detachment from his family and his death, and the victims of Nazi racial purification. Gregor’s room terribly resembles ghettos. His sister’s sense of asphyxiation calls to mind the gas chambers of extermination camps. In fact, almost any person who has ever suffered in life, who has been treated like “an invalid old”, or awaited eternal hours in isolation for a touch of care, in some way, feels empathy with the insect-like Gregor. Once he loses his job due to his bodily incapability, which he regards “a mere occupational injury”,²⁰⁷ once a mercantile catastrophe befalls the family, the father’s and the sister’s brutality is unmasked. Members of the family are the ones who perpetrate

²⁰² Kafka, *Metamorphosis*, *supra* note 201, p. 86.

²⁰³ Kafka, *Metamorphosis*, *supra* note 201, p. 86.

²⁰⁴ Kafka, *Metamorphosis*, *supra* note 201, pp. 53-57.

²⁰⁵ Kafka, *Metamorphosis*, *supra* note 201, p. 22.

²⁰⁶ David Cronenberg, “The Beetle and the Fly”, in *Metamorphosis*, *supra* note 201, p. 11.

²⁰⁷ Johannes Pfeiffer, “the Metamorphosis,” in *Kafka: a Collection of Critical Essays*, Ronald Gray ed. (Prentice Hall Inc., Englewood Cliffs, N.J. 1962), p. 57.

violence against Gregor.²⁰⁸ With all the overt references to fanatical absurdity of modern life, it is impossible for an informed mind not to think of the ‘essential workers’ during the Jewish Holocaust, whose lives could perhaps be spared only if they could generate wealth.²⁰⁹ In fact, one can draw parallels between Kafka’s work and the process of dehumanization. How, after all, dehumanization—or projecting a fragment of our divided psyche upon others—facilitates aggression? In my eyes, dehumanization functions once a split between our conscious and unconscious is complete. Once a psychic attribute in us is—at the conscious level—forgotten, the unconscious finds it in others. Then one can no longer *see* a *bond* between oneself and, say, an insect, and a family member, likewise Gregor, will be cut off from the rest of the family. Kafka, however, could simply *see* his *being* transmuted into an insect—which he adamantly resisted its depiction and denomination—²¹⁰waking up on an all-too-ordinary day.

Metamorphosis evokes empathy in us; it perhaps touches and awakens *the Beetle* in every one of us that is inhumed beneath the heavy layers of our one-time awareness, the *bond* that is lost in the midst of our modern superficialities. The Law Faculty, from which

²⁰⁸ One can draw a parallel between the fact that the closest person to Gregor, *i.e.* his sister, finally kills him and the argument which I earlier elaborated about the genesis of other from the matrix of self. In fact, ‘other’ is virtually always born out of a defragmented self; other is a fragment of the ‘crystal’ of self. The family kills a member of itself, specifically by the hands of the closest person to the victim. Does this imagery not resemble the realities of genocides?

²⁰⁹ The first time I read Kafka’s *Metamorphosis* was not long after I had seen Spielberg’s *Schindler’s List*. A coincidence or part of a hidden design, whatever the case was, the experience revealed an eerie nexus to me, a connection between the novella and the Holocaust. It struck me the way lightning does, enlightening the truth momentarily and leaving you in the dark afterwards, with wisdom of some sort born out of a moment of epiphany that lasts an eternity.

²¹⁰ His resistance against calling the insect a name and depicting it perhaps indicates that the image, or the meaning, he tried to evoke in his novella, was indeed an unconscious, and archetypal, image, which cannot be reduced to a certain form and cannot be defined in a specific fashion. Such degree of vagueness and indefinability is one of the characteristics of psychic archetypes.

Franz graduated, alas, had no room for his imaginative faculty, perhaps because imagination explodes the boundaries of legal query. I must say, in all sincerity, that I do not mean to reduce his insight to some sort of prophecy. I do not mean to suggest that we should look for the traces of a future catastrophe in the next novella that is being penned today. Instead, Kafka's insight—and not foresight—is a priceless gift, a medium if you will, whereby humanity's collective unconscious surfaces, can be dealt with, and perhaps understood in a better way. Should we, legal scholars, spurn or neglect the necessity of arts—in the light of which *bond* and lack thereof become manifest—should we not dare leave the serenity of the ivory tower to encounter the reality, we will be sentenced to witness how our collective unconscious will ruthlessly remind us of the images of fatal blows of clubs and machetes descending on—who were not coincidentally called—*inyenzi* in *Nyamata*.²¹¹

²¹¹ The root causes of Rwandan Genocide lie not only in the Belgian Colonialism and its divisive policies, not only in the French meddling and the disregard of presages in Burundi and then the RTLM programs in Rwanda, but in the collective psyche of humanity, in a psychic divide that inexorably manifested itself in the material world in a brutal fashion. For Kafka, the ill-omens of genocides were vivid and naked in his imaginative journey in the atemporal realm of psyche. For the *Madman*—whose connection with the psychic reality is lost—the lessons are to be learnt in harsh and bloody ways. The madman could not even hear what it really means to call Tutsis cockroaches. In the small town of Nyamata only, more than 40,000 Tutsis who sought asylum in the Nyamata Catholic Church—which turned into a slaughter house—were massacred within a few hours.

Part three: Politics of Death in Iran: An Analysis of the 1988 Executions

After having expounded on my theoretical assertion, I wish to return to where I began, to Iran, but this time to a different context. In this chapter, I hope to contextualize and analyze the two components of my theoretical framework, namely *hierarchy* and *lack of bond*. In my examination of the 1988 mass executions, I will apply my theory of violence to the specific case of execution, for two reasons: firstly, by doing so, I wish to put my theoretical assertion to the test once again to see if it can provide an adequate account of the subject-matter. Secondly, through criticizing the constituent components of the 1988's events, I will attempt to exemplify various manifestations of *bond* and *hierarchy*. Before I begin, I wish to reiterate that the theoretical framework that I have developed is merely a prism, largely predicated upon personal observations, through which I have scrutinized violence—hopefully in a more critical and rigorous fashion. The postulate, upon which the following is based, is therefore subjective and biased to an extent, and by no means, do I claim that it is the only account that can explicate the intricacies of violence. I am—and hopefully shall perpetually remain—far from such a sense of objectivity. Moreover, I must acknowledge that my analysis is subject to ineluctable disregard of countless issues playing a role in the subject-matter. This is in part due to my inclination towards criticizing capital punishment through my theoretical assertion; but alongside the postulatory partiality stands the limits of a scholarly work, with which I have been grappling throughout the dissertation. Notwithstanding such inescapable restrictions, I hope that the following will further clarify my proposition. I also hope that this chapter rekindles a dialogical understanding, whereby true reconciliation and healing could

become possible. In this chapter, I wish to cast a look upon one of the least-discussed occurrences of the death penalty in contemporary Iran, the 1988 mass execution of political prisoners. However, to better fathom the complexities of this incident, it is indispensable to go a few years back in time, to the 1979 Islamic Revolution of Iran, and subsequently examine the chain of events, which altogether, gave rise to what happened in 1988. I think the immediate origins of the execution of thousands of political prisoners lie and can be sought in the Revolution and what thereafter occurred to Iran.²¹² Finally and more importantly, I must admit that writing the following is a formidable and daunting task; analysing an unhealed trauma, which requires godlike fairness, is never easy. Nevertheless, after less than three decades, when the dust is yet far from settled, by retaining an impartial eye—fastened to the beacon of truth—I humbly hope to give a sincere account of the events.

A. The Rise of Hierarchy: the 1979 Revolution

“Here is Tehran; the true voice of the Iranian nation, the voice of the Revolution”. To date, this radio announcement remains as one of the most historic voices that echoes in the minds of Iranians; the announcement was short, however it marked the fall of a 2500-year tradition of *Shahanshahi*.²¹³ It was aired on February 11, 1979 from a radio station located in the heart of Tehran, on Seyyed Khandan intersection. One can still feel the hysteria in the voice of the announcer, a sort of excitement which almost no one could explain clearly, but took everyone

²¹² Here and throughout this part, I use *Iran* as a trope, in *her* figurative sense, to simply refer to both Iranian people and the post-revolutionary government of Iran. Also, the reason I utilize a feminine pronoun is not to merely follow the grammatical traditions of English, but rather, to both personify abstract ideas, such as State, people, etc., and more importantly imply an analogy between the girl in *Gallows* and *Iran*.

²¹³ *Shahanshahi* (English: monarchy) is a term derived from an Old Persian title, which was first ascribed to Cyrus the great (6th Cen. BCE) after the conquest of Babylon; it has hitherto been used by a considerable number of Shahs ruling over Iran, the latest of which was Mohammad Reza Shah, who denominated himself as *Shahanshah Aryamehr*.

to the streets, and united the extremes of all walks of society for perhaps one purpose: a new era and a novel course of history. There, however, existed a major obstacle to the images of a new era. The obstacle was Shah and the overthrow of him, more than anything else, animated and inspired throngs. But it would be an oversimplification to reduce the Revolution to a mere wish for a better future, which required the dethronement of Shah. Complexities of the Revolution still perplex researchers. Regarding the Islamic Revolution, everything still seems clouded and uncanny. It is, for instance, difficult to grasp the preternatural unanimity of Marxists and communists who, hand in hand, with rightists and Islamists stood up against the royal family. They were all united against Mohammad Reza Pahlavi, as though a divine force animated and amalgamated them. They were demanding *something* which virtually no one could clearly explain, but gave them reason to shield their [then] sisters and brothers from the bullets with their chests.



The otherworldliness of revolutions is not a pretext to evade the complexity of such occurrences; on the contrary, it is a sign of cognizance that permits engaging with fathomless realities in those events. It is perhaps for this reason that Arendt, whose *On Revolution* remains as one of the most critical and profound works in this field, explicitly utters:

“The history of revolutions—from the summer of 1776 in Philadelphia and the summer of 1789 in Paris to the autumn of 1956 in Budapest—which politically spells out the innermost story of the modern age, could be told in parable form as the tale of an age-old treasure which, under the most varied circumstances, appears abruptly, unexpectedly, and disappears again, under different mysterious conditions, as though it were a *fata morgana*. There exist, indeed, many good reasons to believe that the treasure was never a reality but a mirage, that we deal here not with anything substantial but with an apparition, and the best of these reasons is that the treasure thus far has remained nameless. Does something exist, not in outer space but in the world and the affairs of men on earth, which has not even a name? Unicorns and fairy queens seem to possess more reality than the lost treasure of the revolutions.”²¹⁴

Similarly, Walter Benjamin implies this attribute of revolutions and the violence erupting therefrom. In his *Reflections*, Benjamin categorizes revolutionary violence, “the highest manifestation of unalloyed violence by man”,²¹⁵ as *divine* violence.²¹⁶ Ayatollah Khomeini and the entire body of the Iranian Government, too, repeatedly referred—and has been referring—to February 11, as the Day of God,²¹⁷ a divine day. Khomeini, the architect

²¹⁴ Hannah Arendt, *Between Past and Future: Six Exercises in Political Thought*, (Cleveland, The World Publishing Company, 1963), p. 5.

²¹⁵ Benjamin, *Critique of Violence*, *supra* note 40, p. 300.

²¹⁶ Benjamin suggests a twofold categorization based on the nature of violence. He makes a distinction between mythical violence, which is law preserving, and divine violence, which is law making. Both kinds of violence are, according to his terminology, of an uncanny nature. See *Critique of Violence*, *supra* note 40, p.297.

²¹⁷ Day of God, or in Arabic يوم الله—which is *not* a Koranic term—was coined by the Islamic Republic of Iran to stress the significance of certain days, such as February 11 or May 24, the day of Khoramshahr Liberation. After the liberation of Khoramshahr, Ayatollah Khomeini famously said: “God liberated Khoramshahr.”

of the Revolution, expressly stated in one of his talks, a few months after the dethronement of Shah: "I have mentioned earlier that this victory is not attributed to me; I am a *talabe* (an Islamic seminary pupil). You mustn't affiliate this [victory] to me. The victory was not attributed to the nation either; it was a divine victory."²¹⁸ It would be naïve to simply think that these words merely signify the religious nature of the Revolution. It would be more plausible to think that those terms contain realities cloaked in the lexical disguise of vocabularies to speak of the unspeakable and to denominate the nameless and the mysterious. In the context of the 1979 Revolution, perhaps nothing was as bizarre as the unity among different groups of people with, in many cases, contradictory positions and beliefs. Some may argue, as did Arendt, that the appeal of change united the masses, an irrepressible urge for a new beginning.²¹⁹ This may appear to be a plausible predicate that the element of novelty consolidates multitudes. In the same vein, Arendt maintains that "The modern concept of revolution [is], inextricably bound up with the notion that the course of history suddenly begins anew, that an entirely new story, a story never known or told before, is about to unfold".²²⁰ However, this presumption is not consistent with the reality of, to say the least, the 1979 Revolution. Yearning for novelty requires some sort of knowledge of the desired future, or at least a clear imagination thereof, that can be shared among people. An *image* must exist to unite the masses. But in times of revolution, it is precisely the image of

²¹⁸ Ruhollah Khomeini, "Divine Blessings in the Islamic Revolution's Victory," (May 20, 1979) in *Sahif-e Imam* (Tehran, Imam's Publication Institution, 1989), p. 397. Translation from Farsi is mine.

²¹⁹ Irresistibility itself is another characteristic of [modern] revolutions, which Arendt point out in *On Revolution*, which will come in handy for my argumentation. See Hannah Arendt, *On Revolution*, (London, Penguin Books, 1990), p. 47.

²²⁰ Arendt, *On Revolution*, *supra* note 219, p. 28. Moreover, expounding on the notion of 'revolutionary spirit', she also suggests 'yearning for novelty at any price' as one of its traits. See Arendt, *On Revolution*, *supra* note 219, p. 41.

future that levitates in suspense. In simple terms, there is little, if any, certainty as to what exactly will emerge out of the turmoil of revolution. Further clarification of the oft-irreconcilable desired novelty can simply divide revolutionaries; therefore, it is often avoided and overlooked, or perhaps, undermined by a more powerful force. How could then a nation long for the chimera of tomorrow, the fruit of revolution which is terribly vague, hence impossible to be shared? Revolutionary novelty—which in Arendt’s assertion is coupled with freedom—²²¹ might be a somewhat romantic interpretation of revolutions, or at least inapplicable to the context of the Islamic Revolution of Iran. Moreover, as I noted earlier, in most cases, there is not any similarity whatsoever among the ideas [of perhaps a new course of history] of different groups of people.²²² Therefore there cannot exist *one* yearning for *one* novelty.²²³ It might be truism to say that—due to an overpowering force—

²²¹ Arendt maintains “Crucial, then, to any understanding of revolutions in the modern age is that the idea of freedom and the experience of a new beginning should coincide.” Arendt, *On Revolution*, *supra* note 219, p. 29. Also she writes: “What the revolutions brought to the fore was this experience of being free, and this was a new experience [...] These two things together—a new experience which revealed man’s capacity for novelty—are at the root of the enormous pathos which we find in both the American and the French Revolutions, this ever-repeated insistence that nothing comparable in grandeur and significance had ever happened in the whole recorded history of mankind, and which, if we had to account for it in terms of successful reclamation of civil rights, would sound entirely out of place.” Arendt, *On Revolution*, *supra* note 219, p. 34.

²²² Another shining example can be found in the Constitutional Revolution of Iran, during which the polar political opposites engaged in a popular uprising to limit the power of Mozaffar ad-Din Shah, who eventually signed the Constitution in 1906. On the one hand of the forefront of the Revolution were the intellectuals, secular patriots, typically graduates of European universities, and on the other hand were the mullahs of Qom and other seminaries’ clerics, not to mention the unique role of the Armenians, Tehran’s Bazaar, and others. Although freedom, equality, and, the rule of law were the core elements of the Revolution, for the clergymen, for instance, the rule of law meant implementation of Shia Fiqh, whereas for the French-speaking journalists of Tehran it meant something different. It must be noted that in the former case, *i.e.* for some of the ayatollahs, the element of novelty must be contextualized and translated into the revivification of pure Islam, a retreat from modernity, for explaining which ‘novelty’ might not be a proper term at all. At all events, this degree of discrepancy can never unite multitudes.

²²³ One may instead speak of multiple yearnings, rather than one, for vague futures, rather than one certain future. It would then be hard to imagine that such ambiguous feelings, which inherently cannot be shared, are the foundations of a revolution. For instance, a new politics, and specifically freedom for, say, Marxists in Iran meant totally a different thing compared to what, say, the Islamists might have had in mind. A similar comparison, in an even more vivid fashion, can be drawn, among Liberalists who demanded more modern laws and those who, for instance, thought freedom of fashion could be a threat to Islam; but for months, perhaps years, both groups, hand in hand, chanted “Marg bar Shah” (Death to Shah).

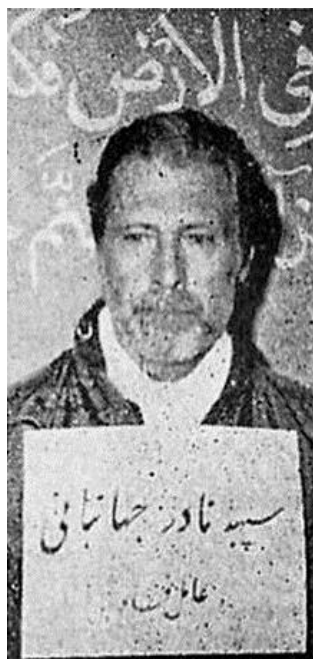
different groups of people could not *see* the differences that separated them. However, there lies a significant truth. This force, or the so-called revolutionary spirit, was the main characteristic of the 1978 Revolution, which can be studied through examining its primary symptom, *i.e.* the outburst of violence. To put it differently, while the fruit of the 1978 Revolution, likewise other modern revolutions, remained in flux, violence was rife.²²⁴ Moreover, this overwhelming force, which I'd argue enkindled violence, is perhaps what impresses all revolutionaries, something that is widely and profoundly shared by everyone, regardless of the idiosyncrasies of their politics. It is then safe to assert that rather than yearning for novelty, throngs were mobilized by an indomitable urge for destruction. This is a sign, or an element, of revolutions which is also pointed out by Arendt.²²⁵

More than a clear image of Iran's future, the minds of revolutionaries were preoccupied with destruction and annihilation of everyone and everything pertaining to Shah. Nothing but blood could satisfy the wrath of the nation. This was manifest in mindless, and of course countless, executions after the Revolution. Lieutenant General Nader Jahanbani's story is a mnemonic of the lament for the numberless people who lost their lives to the evil of revolution. Only a month after the Revolution's victory, Nader was executed on

²²⁴ This is where Arendt and Benjamin both conclude that new beginnings necessitate violence. By refuting, or at least challenging the notion of new beginnings, there must then exist another basis for violence. If the purported causal relationship between novelty and violence is a categorical mistake and cannot be fully defended, then what begets violence in, for instance, revolutions?

²²⁵ As noted earlier, Arendt attributes the violence of revolutions to the element of novelty. There is, I admit, a clear connection between violence [destruction] and creation. From the ruins and the ashes arise novelties and any death promises a birth. Nonetheless, this is in my eyes the very nature of existence, an unbreakable cycle of being, the conservation of being, in ever-changing forms and shapes, which has little to do with violence. It is said that Nietzsche believed that the joy of destruction is a creative joy (see Arendt, *On Revolution*, *supra* note 219, p. 171), but the joy of destruction, I think, cannot be *caused* by something that resides in future. It is simply a [temporal] category mistake. See Arendt, *On Revolution*, *supra* note 219, p. 35.

the rooftop of *Alavi Institute* following a summary trial; a trial whose account after more than thirty-five years still appals everyone. Even in the absence of accurate details of his trial, one can, based on the narratives of the both sides, clearly notice that the process was not only—legally and morally—flawed but solely predicated upon an invincible urge for destruction. Sadegh Khalkhali, the first *Hakim-e Shar'* (a judge of a sharia court) of the Revolutionary Courts, who rendered the decision, writes the following in his biography, to explain the crime:



“Jahanbani was [at] the head of power, [he] could have stood up [for the Revolution]. Since he was almost Shah’s relative and [his] acquaintance, [he] could have objected, but instead, for saving his parasite-like life, for having fun, led a nation astray [...] he is *mofsed-fil-arz* (spreading corruption on Earth, a capital crime); they betrayed our national and religious sanctities. The nations will never accept such people among them.”²²⁶

On the day of his trial, for lack of a clear charge, appearing before a medieval-like tribunal, he was indicted of spreading corruption on Earth. Beyond the flagrant violations of minimum standards required for a fair trial,²²⁷ what strikes as unsettling is the vengeful and chaotic language of the judge, whose decisions terminated

many lives. If one reads between the lines, his urge for destruction is manifest in those

²²⁶ Sadegh Khalkhali, “How did I sentence Shah and his Attendants to Death,” in *Memories of Sadegh Khalkhali: Days of Solitude*, 11th ed. (Tehran, Sayeh Publications, 2009), p. 81. Translations are mine.

²²⁷ Perhaps the most evident legal flaw in post-revolutionary trials refers to the principle of legality, or *the law in force at the time of the commission of the crime*. However, not all trials are flawlessly legal, and the principle of legality, as the course of history witnesses, is perhaps secondary to moral imperatives. But regarding revolutionary trials, the issues are not only legal but also stemming from deep lack of morality. Vague accusations, partiality of tribunals, lack of equality of arms, ambiguous categories of crime are examples of such immoral, and of course illegal, components of such trials. See generally William Schabas, “Interpretation of the International Covenant on Civil and Political Rights,” in *The Abolition of the Death Penalty*, (Cambridge, Cambridge University Press, 2002), pp. 112-132.

statements. This is yet another sign of an impressive force, which overcame not only the fair-mindedness of courtroom, but reason; as though the entire scene was merely arranged to sedate the raging spirit of revolution. The wrathful spirit of revolution, the *divine* force, which begets violence—which ‘strikes’ and ‘boundlessly destroys’—²²⁸are manifestations of *hierarchy* and the *archetype of governmentality*. The revolutionary violence and executions were perhaps physical expressions of an archetypal force, which attempts to subvert and subdue the power structure.²²⁹ In the light of this assertion, the yearning for a new system can also be translated into an archetypal urge to establish [yet another] hierarchical system. But what is of significance for my argument is that once the archetype of *governmentality* has risen at such a popular level, seldom stands it still without massive obliteration.²³⁰ If an entire nation is impressed and driven by *governmentality*, the consequences will be grim. The *hierarchy* annihilates blindly and destroys desultorily. The violence, stemming from the nature of a power whose pillars rest merely upon *hierarchy*, can—and perhaps will—ultimately collapse and obliterate the *being* of ‘a new beginning’, the whole body of politics.

²²⁸ Here the term *divine* does not denote or imply any quality pertaining to a higher existence; it refers to the forces that operate in a different, perhaps immaterial, realm, which nonetheless deeply impress our material life. For the use of divine in the said context, see Benjamin, *Critique of Violence*, *supra* note 40, p. 297.

²²⁹ What led to the rise of *hierarchy* and submission to the archetype of *governmentality*, in the context of the 1979 Revolution, requires a separate and rigorous discussion. However, it can be argued that the distance between the ruling class and the growing middle class, *inter alia*, was one of the triggers of a hierarchical mentality among people. The distance was in part created through the essentialist policies of Shah, which highly revered the pre-Islamic identity of Iran and directly attacked some of the post-Islamic traditions. There exist examples galore, but perhaps a telling one is the change in the national calendar system from the solar *hijri* calendar, whose origin is *hijra*, i.e. the migration of Mohammad from Mecca to Medina, to the solar Iranian calendar whose epoch was the coronation of Cyrus the great.

²³⁰ A similar argument has been made to explain mass atrocities such as the Holocaust. See for instance, R. Kevin Hennelly, “the Psychological Roots of Political and Ideological Violence: A Jungian Perspective,” (1988) 13(2) *Alternatives* 219.

B. Gradual Loss of Bond

“Like Saturn, the Revolution devours its children”²³¹ and the 1979 Revolution was no exception to this rule. The frail unity did not survive the psychic divide. Soon fear overcame the castles in the air and buried the utopian images beneath the corpses of yesterday’s comrades. The illusory fraternity translated into the verity of fratricide. One must bear in mind that the rise of *hierarchy* in a revolutionary context, particularly during the 1979



Islamic Revolution, coincides with the loss of *bond*; *governmentality* and lack of *bond* are two sides of the coin of violence. One of the principal objectives of revolutions and revolutionary violence is to negate, oppose, and nullify the overthrown regime’s legacies.²³² That itself can lead to lack of *bond* between the emerging power and the unseated one. Moreover, the newly-established and insecure regime

Francisco Goya, *Saturn Devouring His Son*,
(Painting, Museo Nacional Del Prado, 1823)

²³¹ It is an English translation of the famous phrase: ‘A l'exemple de Saturne, la révolution dévore ses enfants’, which first appeared in, Jacques Mallet du Pan, *Considérations sur la nature de la Révolution de France, et sur les causes qui en prolongent la durée*, (1793), p. 80.

²³² For the same reason, I think, Walter Benjamin uses the term ‘expiate’ to explain the nature of divine violence. See, Benjamin, *Critique of Violence*, *supra* note 40, p. 297.

seldom acts upon reason; instead its policies are predicated upon an existential fear. It sees everything and everyone with a cynical eye.²³³ A popular Farsi epigram says, “stung by a serpent dreads a black and white rope”. The jaundiced government then extrapolates and projects the foe’s traits onto others. If Shah, for instance, did not support the reading of Islam that victors in power avidly professed, in order to persecute the Liberalists and Marxists their secularism would suffice. If Shah endorsed ancient Iranian traditions, for distrusting the patriots of the FMI (Freedom Movement of Iran)²³⁴ their national pride would be compelling. By the same token, the children of the Revolution were one by one devoured by the trembling hands of the intimidated State. Since the pillars of the new government are fledgling, fragile, and vulnerable, one cannot expect any response but violence to [the imagined] threats. But for some groups it took more than mere resemblance between a ‘serpent’ and ‘a black and white rope’ to taste the bitterness of hemlock. The Iranian government was indeed stung repeatedly by its enemies. The grim reality, that sealed the fate of thousands of lives, did not only emerge out of the paranoid mentality of the Islamic

²³³ This is an ancient fear, which has been stored in the collective memory of mankind in mythologies and stories of ancient kings. In Iranian mythology, for example, the last king of Maddens, Astyages sees in a dream that one of his sons, who bears regal traits, will betray and dethrone him. Once he detects which son is of royal characteristics, he, out of fear, orders his royal shepherd to take him to the mountains and slay him. The shepherd, however, takes pity on the son and decides to raise him secretly. Once grown up, the young man escapes to the south and founds a new dynasty, called the Achaemenid Dynasty, whose first conquest is the Maddens territories. The young man was named Cyrus the great.

²³⁴ The first Prime Minister of Iran, after the Revolution, Mehdi Bazargan, was the Secretary General of the FMI, which alongside others played an important role in the political arena of contemporary Iran. Only after nine months he, due to what he called ‘the meddling of the clerics’, resigned. In the presidential election of 1985, Bazargan decided to run for office. His competency, however, was not verified by the Guardian Council. This set a tradition of gradual marginalization and elimination of political figures, whose positions do not coincide with the main policies of the State, e.g. resistance against the West, faith in *Velayat Faqih* (the jurisprudential and religious theory justifying the supremacy of the leader in the Islamic Republic system), and the like. A great number of key figures, including ex-prime ministers and ex-presidents of Iran, after serving a second term, have been, directly or indirectly, banned from subsequent elections. Mohammad Khatami, Mir-Hossein Mousavi, Akbar Hashemi Rafsanjani, and even the hardline Mahmoud Ahmadinejad are only a few examples of this policy, an ongoing feast of devouring the children of the Revolution.

Republic, but factual hostility towards it. In understanding the suffering of the victims of violence, especially in the 1988 executions, one cannot avert their eyes from the horrifying experiences that the Iranian government had to undergo to secure and conserve its very existence. These events, on which I will expound shortly, led to lack of *bond* and prepared Iran to perpetrate violence against her-*self*.

One can argue that between the victims of the 1988 executions and the Iranian government, a *bond*, albeit fragile, existed that merely precluded the State from eliminating all of them. But the frail *bond* was weakened and ultimately severed through a chain of events which happened to Iran. For instance, only a few months after the Revolution, the plot of a military coup was disclosed to the Iranian authorities. The Nojeh Coup Plot rekindled painful memories for Iran, which was not dim but present in the minds of Iranians. Every lay person, here and there, could vividly remember how the 1921 and 1953 Coups withered the delicate blooms of the Constitutional Revolution of Iran (1906). The outcome of the former, *i.e.* the 1921 Coup, was establishing a military government under Reza Shah (Mohammad Reza's father), and the new dynasty of Pahlavi who was supported by the superpowers of his time.²³⁵ Moreover, during the 1921 Coup d'état, the United Kingdom and the United States actively engaged in overthrowing Mohammad Reza Mossadegh, the democratically elected

²³⁵ Although the classified documents pertaining to the 1921 coup has never been released, the role of the British and the Russian in the Coup is self-evident. Mohammad Mosaddegh (the then Prime Minister of Iran) recounts on Reza Shah's behalf: "the British put me in power, but they did not know who they are dealing with." See Mike Rahbarian, *the Riddle of Petroleum and the Regime Change in Iran*, (Los Angeles, Ketab Corp., 2016), p. 38. Translations is mine. Moreover, during the years preceding WWI, and according to the Anglo-Russian Entente (1907), the Russian and the British Empires regulated their economic and political interests in Iran. Resultantly, the agreement rendered the northern parts of Iran as an exclusive sphere of influence for the Russian interests, and the southern parts for the British. The Iranian government was not involved nor consulted at any stage before the accord was signed. This, *inter alia*, made Iran socio-politically fragile enough not to be able to defend herself against a few thousand Kazakh troops of Reza Shah. These unhealed traumas are some of the origins of the anti-British and anti-Russian sentiments, deeply entrenched in the Iranian culture, which to date continue to play a significant role in the Islamic Republic's politics.

Prime Minister of Iran.²³⁶ These traumatizing events, I'd argue, changed the course of Iranian political history in a drastic fashion. The aftermath of reviving those agonizing memories for the intimidated State was the execution of 144 officers after perfunctory trials, and the assassination of Shapour Bakhtiar—the last Prime Minister of Iran before the Revolution—in Paris.²³⁷ But this was just the beginning of a cataclysmic story which was about to unfold before the eyes of Iranians, a heart-rending tragedy that shattered Iran into pieces and made her capable of executing thousands of political prisoners in 1988.

On September 22, 1980, less than three years after the Revolution, after numerous attempted coups, amid the pandemonium of revolutionary revenge and fear, Saddam Hussein invaded Iran; he called the war *Saddam's al-Qādisiyyah*,²³⁸ Iran called it *the Sacred Defense*. Here, neither I wish nor is it relevant to go through all the details of what ignited the flames of War;²³⁹ instead I would briefly touch upon some of the least-disputed facts

²³⁶ The coup was orchestrated by the American Central Intelligence Agency (CIA), under the Operation Ajax, and the Secret Intelligence Service (MI6) under the Operation Boot. See generally and for instance, The Guardian, *CIA Admits Role in 1953 Iranian Coup*, (August 19, 2013) available online at:

<https://www.theguardian.com/world/2013/aug/19/cia-admits-role-1953-iranian-coup>

For the confidential correspondence pertaining to 'the Anglo-American Planning' visit:

<http://nsarchive.gwu.edu/NSAEBB/NSAEBB435/docs/Doc%2023%20-%20October%2012.pdf>

²³⁷ See Mark J. Gasiorowski, "The Nuzhah Pot and Iranian Politics," (2002) 34 *International Journal of Middle East Studies*, p. 657.

²³⁸ *Qādisiyyah* is a small town on the west bank of the Euphrates. The battle of *Qādisiyyah* was fought during the seventh century ACE, between Muslims and Iranians. Iran lost the battle only after a few days for various reasons. Iraq, which was then part of the Iranian Sassanid Empire, was subsequently conquered by Muslims. This battle is still remembered, by many Iranians, as an embarrassing and humiliating event, during which the [perceived] pride and glory of Persia was lost to the Arabs. It took two centuries for Iranians to recover from the loss, intellectually, emotionally, and otherwise. (see Abdolhossein Zarrinkoob, *Two Centuries of Silence*, Avid Kamgar trans., (AuthorHouse, 2016)) It was part of Saddam Hussein's policy to revive similar sentiments among Iranians and rekindle a sense of superiority among Arabs, one that was long lost after the fall of the Ottoman Empire.

²³⁹ Although the true motives behind waging the war against Iran can strengthen my argument, I wish to forgo the details. However, the facts that I will invoke in this section to further my argument, can be commonly found in the

pertaining to this event which led to an unprecedented catastrophe in contemporary Iran. Within the first few days of the Iran-Iraq War, Saddam occupied thousands of square kilometers of Iranian soil. The lack of discipline in the Iranian Army, which among other things tempted the armed-to-the-teeth *Ba'athists* to attack Iran,²⁴⁰ promised an expeditious victory to the Arab World—except Syria and Libya who sided with Iran—who wholeheartedly supported Saddam's ambitions. Moreover, Iraq was overtly supported, financially, logistically, and diplomatically by all superpowers; the US, the UK, the Soviet, all backed Saddam Hussein, not to mention that the US, who had invaded Iranian soil a few months before Iraq's attack,²⁴¹ actively engaged in the combat against Iran in a number of occasions.²⁴² The UN Security Council, six days after Iraq invaded Iran, adopted a

narratives of Iranians, Iraqis, and international organizations. See generally: Encyclopedia Iranica, *IRAQ vii. IRAN-IRAQ WAR*, available online at: <http://www.iranicaonline.org/articles/iraq-vii-iran-iraq-war>

²⁴⁰ At the beginning of the war, Iran had only two motorized units, hundreds of kilometers away from the southwestern borders, while Iraq had five battalions, two motorized units consisting of fully-armored soldiers, and five disciplined and professional divisions, all ready to assault Iran. See, for instance, BBC Persian, *The Report of Secret Talks: The US Had Notified Bazargan of Iraq's Invasion* (January 2013), available online at (translation from Farsi is mine): <http://www.webcitation.org/6DxyFnJzk>

²⁴¹ The US Army and the CIA, under the presidency of Jimmy Carter, in an act of aggression invaded Iran during the Operation Eagle Claw, also known as the Operation Rice Bowl, in order to rescue the 52 embassy staffs who were held hostage by the young students who attacked the US Embassy in Tehran. The mission, due to a sandstorm, failed, resulting in the death of eight servicemen. For a case study on the 1979 Hostage Crisis and the Operation see, William L. Waugh, "The Structure of Decision-Making in the Iranian Hostage Rescue Attempt and its Implications for Conflict Management", (1990) *Conflict Quarterly*, pp. 26-40.

²⁴² For instance, on July 3rd, 1988, an Iran Air passenger flight on route to Dubai was shot down by the US Navy guided missile cruiser USS Vincennes, which had invaded Iranian territorial waters. The aircraft, an A300 Airbus, was destroyed and 290 civilians on board died. The Americans tried to communicate with the aircraft using military frequencies, but a passenger flight never monitors such frequencies. The aircraft sent an internationally-known signal (IFF Squawks Mode III) to the vessel, but the signal was dismissed. Later, the men of the Vincennes were awarded *Combat Action Ribbons* for completion of their tours in a combat zone. For a brief and documented account of the incident see: Shapour Ghasemi, "Shooting Down Iran Air Flight 655 [IR655]" in *Iran Chamber Society: History* (2004) available online at:

http://www.iranchamber.com/history/articles/shootingdown_iranair_flight655.php

resolution,²⁴³ in which the ‘deeply-concerned Council members’ basically paid lip service to the aggressors and the *Ba’athists*. The Resolution neglected to mention key facts, and did not even urge Iraqis to withdraw and evacuate Iran. The Resolution shuns the fact that the war was imposed against Iran, and Iraq breached the international peace and security. Saddam immediately embraced the UNSC’s gift with open arms, but Iran refrained and subjected her adoption to the complete withdrawal of Iraqi soldiers from Iran. It took more than two years—and of course the Liberation of Khoramshahr—²⁴⁴for the ‘deeply-concerned members’ to call for a withdrawal of forces to internationally recognized boundaries.²⁴⁵ Six years after the War had begun, for the first time the initial acts that gave rise to the conflict were deplored, without, still, *any* explicit reference to the aggressor’s responsibility or any request from the Secretary General to investigate the responsibility for the conflict.²⁴⁶ The above-mentioned series of events did seriously damage and weakened the trust and also the *bond* between Iran and the international community. Iran not only was systematically abandoned, but also gravely assaulted. The Ba’athists’ flagrant act of aggression, the use of chemical weapons,²⁴⁷ Saddam’s *War of the Cities*—killing thousands of innocent civilians in

²⁴³ S/RES/479(1980); Also, for the manifest difference in language, tone, etc., compare with, *e.g.* S/RES/660(1990) condemning Iraq’s invasion of Kuwait.

²⁴⁴ Saddam and the world were baffled by the resistance of 30,000 civilians in Khoramshahr, who not only prolonged Saddam’s ‘few-week-long’ plot to occupy and annex Khuzestan, but did ultimately turn the page and gave Iran the upper hand in the War. This forced the international community to partially recoil from their hostile positions against Iran. For some details on Khoramshahr’s Liberation and its significance see: Major Robert E. Sonnenberg, “The Iran-Iraq War: Strategy of Stalemate”, in *War Since 1945 Seminar*, (Quantico, Virginia: 1 April 1985), available online at: <http://www.globalsecurity.org/military/library/report/1985/SRE.htm>

²⁴⁵ S/RES/514(1982)

²⁴⁶ S/RES/582(1986)

²⁴⁷ See, for instance, Major Robert E. Sonnenberg, “The Iran-Iraq War: Strategy of Stalemate,” in *War since 1945 Seminar*, (Quantico, Virginia: 1 April 1985), pp. 31-36. For years, many individuals and families have been suffering from the lethal effects of chemical weapons used by Saddam Hussein against Iraqi Kurds and Iranians. Everyone in the country knows at least one person who has either died of diseases caused by those weapons, or is still suffering day and night awaiting their painful death somewhere in a corner of the world. The story of one of these soldiers, who

schools and hospitals—none of them broke the international community’s flinty silence. But apathy was not the only response Iran received; the uncaring hush of the so-called deeply concerned was compounded by strict embargos against Iran, and endowing Iraq with billions of dollars, chemical weapons, missiles, and so forth. The climax of the story, however, was yet to come and a more devastating catastrophe was still lurking Iran.

Ayatollah Khomeini, on July 20th of 1988, ‘imbibed a chalice of hemlock’²⁴⁸ and adopted the Security Council’s Resolution²⁴⁹ for the first time since the beginning of the war. Only two days after, in the morning of 22 of July, Iraq launched yet another attack on the villages of Zardeh, Nesardireh, and many others, in the heart of Dalahoo Mountains, in Kermanshah Province, targeting 1700 civilians—mostly Zoroastrians who had convened for a ritual observance—using chemical weapons.²⁵⁰ Four days after, another offensive was launched by Saddam in the hope of annexation of Khoramshahr, or perhaps distracting Iran from what was about to happen elsewhere! On the same day, one of the children of the Revolution returned to the stage, but this time not in the fashion of a brother, but in the

travelled to Germany to receive treatment from those who sold chemical weapons to Saddam is an ironic, and of course tragic, anecdote of history depicted in Hatamikia’s *From Karkhe to Rheine* (Film, 1992, Iran).

²⁴⁸ This phrase was originally used by Ayatollah Khomeini announcing the adoption of the Resolution, in a letter addressing the Iranian nation. He concludes the letter by the following: “God, you witnessed how the arrogant and the world-devouring US defoliated the flowers of your godly guidance (connoting martyrdom of Iranians) [...] in the world of oppression and disparity, you are the sole support for us, and we are indeed alone.” Khomeini, *Sahif-e Imam*, vol. 21, *supra* note 218, pp. 92-95. Translation from Farsi is mine.

²⁴⁹ S/RES/598(1987)

²⁵⁰ Some of the bombs were dropped on the river running through the villages in the area. Along with hundreds of civilians, herds of cattle and vegetation were instantly annihilated. Lasting effects of chemical weapons are still visible among the demographic and also in the natural landscape of Dalahoo Mountains. Only in one of those villages, a minimum of 10 people die per annum, suffering from countless diseases caused by those weapons. See, for instance, Asriran, “10 Annual Martyrs in Nesardireh” (News Release, 22 July 2011) available online, in Farsi, at: <http://www.asriran.com/fa/news/173851/>

forefront of the foe.²⁵¹ While Iranians were occupied with defending against the surprise attack in the Southwest, the MEK, an Iranian leftist organization,²⁵² launched a full-scale attack to conquer Tehran within 48 hours.²⁵³ The MEK divisions, covered by the Iraqi Air Force, made swift progress within a few hours. They were expecting that people would join them and fight against the State, but the opposite came true. Their advance was completely halted due to the fierce resistance of Kurds. The Forough Javid Operation (English: Eternal Light) was not regarded like an ordinary occurrence in war; it was perceived by Iran in a different way. It was not just an act of treason; indeed, it was felt like a stab in the back by many Iranians. One may argue that the Iranian government never adopted an open policy to win their political participation and instead always threatened and suppressed them. The MEK, too, had suffered from the evil of Revolution. They were also subject to cruelty. This is a valid account. Their violence can also be seen and perceived from their perspective. However, it never means that alternative accounts are less legitimate. In fact, the opposite is true; comparing the scale, the timing, and the targets of the MEK's violence, one feels at least a pressing need to listen to Iran's argument, something that has never happened, due to the

²⁵¹ It would be plausible to assert that the fraternity *bond* between the Iranian State and many revolutionary forces had been already eroded and severed, if ever existed. The Marxists, and also the MEK (The People's Mojahedin Organization of Iran), an Islamist-Marxist movement, which played an undeniable role in the victory of the Revolution were virtually marginalized within the first few years of the Islamic Republic, due to their different political and ideological views.

²⁵² The MEK, about two years after the war began, in 1980, fled Iran to Iraq. Some of the reasons for this decision include the fact that they found their positions irreconcilable with that of the Islamic Republic, after their noncompliance with the results of the Constitutional Referendum (1979), they were suppressed by the State, and after engaging in a series of terrorist attacks against Iranian officials, they were treated with skepticism, resulting in the prosecution of thousands of the Organization's members.

²⁵³ The Organization had already engaged in armed struggle with the State, both before and after moving to Iraq. During the last few months of war, they launched three major operations against Iran: Aftab Operation (28 March, 1988), Chelcheragh Operation (18 June, 1988), and finally their largest of all, Forough Javidan Operation (26 July 1988).

ongoing hostility against Iran, and of course Iran's reactions. The unhealed traumas on the body of Iran have never been attended. The international community, instead of providing care, has rubbed salt into the wounds of Iran,²⁵⁴ dismissing the moral imperative of giving voice to both parties of any event, in a dialogical discourse, to perhaps initiate a healing process. But is there, at all, room for *healing* amid the care-less modern politics?

The Operation, alongside the assassinations amid the anguish of war, was engraved in the collective psyche of Iran.²⁵⁵ They may never be forgotten. No one can sweep them under the rug, in fact no one should, but there might be hope, somewhere in the minds of the brave leaders and insightful citizens, to embark upon a healing process, through engaging in a dialogical discourse. No doubt, this process would be complex and laborious, and it could only build upon patience, trust, and collateral security. Nonetheless, in the context of 1988 in Iran, these were rarities, in particular, among the petrified leaders of that time. Fear

²⁵⁴ For instance, On September 28, 2012, the US, following the United Kingdom and the European Union, delisted the Organization as a FTO (Foreign Terrorist Organization). One of the arguments made by the MEK's lawyers was that the Organization 'shared intelligence with the U.S. government regarding Iran's nuclear program'. On Wednesday December 23, 2009, a world-renowned Iranian physicist, Masoud Alimohammadi was assassinated in Tehran. On Monday, November 29, 2010, another Iranian physicist, a Shahid Beheshti University professor, Majid Shahriari was assassinated. Another attempted assassination was unsuccessful on the same day. Two high-ranked American officials, whose identities remains anonymous, told NBC that these assassinations were plotted and backed by Mossad Intelligence Service and executed by the MEK. See, BBC Persian, *NBC: the Role of Mossad and MEK in Recent Assassinations*, (News Release, 10 February, 2012) available on line, in Farsi, at:

http://www.bbc.com/persian/world/2012/02/120210_u06_mek_musad_terror.shtml

Also for the details of the judicial procedure resulting in delisting the Organization see Aaron Schwartz, "National Security and the Protection of Constitutional Liberties: How the Foreign Terrorist Organization List Satisfies Procedural Due Process," (2014) 3(1) *Penn State Journal of Law & International Affairs*, pp. 304-313.

²⁵⁵ During the first years of war, following a crackdown by the Iranian State, which resulted in the death of some 50 members of the Organization; the MEK shifted its policy towards engaging in a guerrilla war against the State and assassinating key persons in the Islamic Republic. A week after the crackdown, 73 members of the Islamic Republic Party were killed in a terrorist attack, among which were the Head of the Supreme Court, a number of ministers and MPs and others. This was just the beginning of an unending series of terrorist attacks that killed hundreds of civilian and political figures. This made the State—which was in war with virtually the rest of the word—cynical about Marxists, Liberalists, and of course above all, the members of the MEK. This led to mass detention of the members of such groups, from all walks of society, teachers, professors, doctors, students, laborers, and so on and so forth.

deactivates reason and the rational arsenal of an intimidated leader is literally lethal. Moreover, resorting to violence is perhaps the most immediate response for such leaders. Under such circumstances, death is always at hand. In a metaphoric language, once you put a match to a haystack, once the barn is ablaze, it burns the crops, the animals, and the barn; it does not discriminate. The merciless blaze incinerates utterly. Expecting a leader, in that context, to behave rationally, amid the burning flames of war, is as extraneous as expecting the fire to act upon reason. In 1988, the haystack was already there, the lethal *hierarchy* had already risen after the Revolution; subsequently, the war intoxicated the god of *governmentality*. The match was struck by isolating Iran and perpetrating violence on her fragile body. The blaze of primal violence, therefore, was perhaps an inescapable corollary of breaking the *bond*—that could have *tamed hierarchy* and *governmentality*. Once the *bonds* were eroded, the *hierarchy* could not be put under control; instead, it was unchained and unfettered. The archetype of *governmentality*, reified in the leaders of State, was denied an elixir of *bond*. In lieu of care, it was fed, likewise *Zahhak*,²⁵⁶ the blood of its youth.

C. The Suicide of 1988

My critique would be deficient and cursory, if I simply avert my eyes from the details of the 1988 executions. Nonetheless, my critique is not immune to inevitable disregard of the

²⁵⁶ In Iranian mythology, *Zahhak* was a Shah who ruled for one thousand years over Iran. During his reign, wisdom and light were undermined by the dark and ignorance. It is said that *Ahriman* (English: [perhaps] Evil), after deceiving *Zahhak*, kissed his shoulders and then two serpents grew on his shoulders, whose hunger could not be satisfied except by feeding them two young brains every day. Therefore, *Zahhak* orders daily execution of two young men to perhaps sedate the raging and ever-hungry serpents. But the more he kills the crueller he becomes. The brains of youth and the lust to devour them, I am convinced, refer to a sort of ignorance, caused by a denial—and devouring—of the collective psyche of Iranians. The more brains are devoured, the deeper the split and ignorance become. The result, no doubt, is excessive violence. A King, whose *governmentality* can easily be unleashed, is but ready to rage, once the psychic *bond* is lost. This story, in an uncanny fashion, resembles the 1988 mass executions in Iran.

details pertaining to the subject-matter. Recounting a single event of history requires volumes of books, however atomizing historical events and removing them from their rather intricate and broad context leads to misunderstanding those phenomena. In such an interconnected web of events, one needs to observe such linkages to fathom the reality of events. However, in understanding the complexities of catastrophes, *how* and *why* matter more than *who*; no sane person dares question hard facts. *Who* decreed the execution of thousands of political prisoners is, I'd argue, secondary in terms of significance to *how* and *why* he did so. In the light of such critiques our perception of justice and right and wrong will transform; the simplicity of bashing and demonizing the perpetrator will give up its place to the complexity of *seeing* beyond material actions, and seek the root causes of tragedies beyond. The query does not conclude, but begins by incrimination. Of course, this would be unsettling and undesired for those who toy with justice to further their policies. Living a life with an insight of this kind, where no one is absolutely evil and everyone shares accountability, requires strength and courage. *Seeing* an internal issue of 1988 executions in Iran, entwined with international peculiarities of the time would be discomforting for the residents of the ivory tower in academia and Amnesty Internationals. *Seeing* capital punishment in the intertwined fabric of interactions, where national and international issues are but the weft and warp of one textile, would challenge simplistic accusations and categorizations.

In the summer of 1988, the Iranian State, following a decree and a fatwa²⁵⁷, issued by Ayatollah Khomeini, executed a shocking number of political prisoners within a few

²⁵⁷ The decree was issued within a letter that was sent, *prima facie*, to the High Judicial Commission. The original copy of the letter, written by Khomeini's son and signed by Khomeini himself, is neither dated nor addressed. See

months.²⁵⁸ The letter, in which Imam Khomeini verbalizes his rationale—or perhaps fear and anger—behind the decree, touches upon key notions; the reasons Ayatollah Khomeini invokes can be well deciphered as signs of fear and insecurity. On behalf of Khomeini, his son, Ahmad, writes in the letter:

“Since *Monafeghin* (English: the hypocrites, a term used by the Islamic Republic to refer to the MEK) do not believe in Islam, and whatever they preach is out of hypocrisy and [...] they are apostates, and given that they are *Muharib* [a capital crime, in this context, meaning fighting against Islam], and [considering] their [waging] classic wars against our Muslim nation, with the Ba’athists, in the North and Northwest of Iran, [...] those in all the prisons of the country, who are still insisting *on their position* of hypocrisy are *Muharib* and [must be] sentenced to death. [...] this issue, in Tehran, is to be decided by a majority vote of Hujjat al-Islam Nayyeri (the Judge of Sharia at Evin Prison), Mr. Eshraghi (Tehran’s Prosecutor), and a representative of the Intelligence Ministry; although to err on the side of caution, unanimity is to be exercised, majority’s vote is binding; mercy on Muharibin is naiveté [perhaps also gullibility], Islam’s decisiveness against God’s foes is an irrefutable principle in an Islamic system. I hope that you please God, with your revolutionary indignation [or perhaps grievance] and wrath against the enemies of Islam. [...]”

A fleeting glimpse at the letter is sufficient for reminding one of the rudiments of criminal law—ironically—through glaring examples of breaching its principles. Ayatollah Montazeri, the then vice-Supreme Leader of Iran, points out a number of such flagrant flaws in a letter, which can be detailed elsewhere.²⁵⁹ But above *nulla poena sine lege* and *no bis in idem* what

Ayatollah Montazeri, *Bakhshi az Khaterat Ayatollah Montazeri* (English: *Part of Ayatollah Montazeri’s Memories*), (Qom, 2000), pp. 626. [All translations from Farsi are mine; also, the book has not been physically published in Iran, however an electronic version is available, in Farsi, on: <https://amontazeri.com/book/khaterat/>]

²⁵⁸ The exact number of the executed, which is not at issue per se, remains unknown to date. From a few thousand to more than ten thousand prisoners are said to have been executed in the summer of 1988. Ayatollah Montazeri reckons 2800 to 3800 people to have been executed after the issuance of Ayatollah Khomeini’s letter; the estimation belongs to the period of time that decree was being implemented. Therefore, it would be plausible to assume that the final number of the executed is much higher.

²⁵⁹ Ayatollah Montazeri argues, *inter alia*, that there is no legal ground for executing the ones who were imprisoned—before the MEK’s Operations—and this will be seen as mere revenge-taking; he also writes that sentencing prisoners who have been sentenced to less severe punishments [than death] is being neglectful of all the judicial principles and the decisions of judges. See Montazeri, *Memories*, *supra* note 257, pp. 629-630.

perhaps begs more scrutiny is the terminology of the letter. The language indicates a deep fear which even overcomes the elementary principles, which ironically were taught by Khomeini for years in seminaries. The fear also stems from mistrust, which grew into a lethal suspicion. The letter's terminology does not allude to a valorous leader, but a timorous one whose power has been lost not in the battlefield but through fragmentation of *self*. Less than a decade before the letter was penned, the now-called hypocrites were perceived as true brothers and comrades. In a sense, the letter can be seen as a suicide note, written by someone who has given up and commits self-destruction. Ayatollah Montazeri, alluding to the close relationship between the Revolution and prisoners, writes in his response to Khomeini: "[the execution of prisoners] will upset and make many families, who are religious and revolutionary, mournful."²⁶⁰ Montazeri recounts an anecdote of a girl in Fars Province who, before the execution, wills: "it will be alright, things happen; don't be skeptical of the Revolution, read Quran and *Nahj al-Balagha*²⁶¹ [...]"²⁶² Among thousands of the executed, untold myriads of believers, who said prayers, fasted, and even renounced the MEK, were put to death.²⁶³ Alas, these realities were not visible to a leader whose psyche, in the absence of *bond*, was impressed and possessed by his deathly *governmentality*. The brave Montazeri

²⁶⁰ The letter was written in response to Ayatollah Khomeini's decree on Sunday, July 31, 1988. See, Montazeri, *Memories*, *supra* note 257, pp. 629-630.

²⁶¹ *Nahj al-Balagha* is perhaps the second most sacred book for Shia Muslims, which is a collection of Imam Ali's letters, decrees, etc.

²⁶² See Montazeri, *Memories*, *supra* note 257, p. 638.

²⁶³ For instance, there were six brothers, Montazeri writes in his book, who were all pious, fasting and saying prayers, who openly rejected the MEK's positions, but were still executed because they did not accept to make a public confession on TV. They even expressed their willingness to write something instead [of a Stalinist] set-up interview on TV. They were ashamed [of perhaps looking vanquished]. But all of them were executed, except one of them who was disabled. See Montazeri, *Memories*, *supra* note 257, p. 638.

reminds Khomeini of a hadith that says, “The judge shall not adjudicate, is he wrathful,”²⁶⁴ and in the same letter he refers to the unhealthy atmosphere that grossly impacted judgments.²⁶⁵ Needless to say, neither Khomeini nor his appointees could hear Montazeri’s admonitory utterances.

The notorious High Judicial Commission, based on the wording of Khomeini’s letter, fabricated a method of inquisition in order to verify whether the inmates were still steadfast in their position—supporting the MEK—or not. The makeshift courts were erected to kill;²⁶⁶ therefore no room was left for the presumption of innocence or other legal principles during the summary trials. In many cases, the inmates did not even know that their answers can seal their fate; they did not know their death awaits them in the room next-door. Given the circumstances that gave rise to such ad-hoc tribunals, I think any legal and normative engagement with the subject-matter will lead to misunderstanding the reality. In other words, positive legal considerations are all beside the point. As I noted earlier, fear was the cornerstone of the Commission; the members were not concerned about justice, but rather, they were driven by the lethal force of *governmentality*. Therefore, it is not surprising to see that they were merely seeking pretexts to condemn everyone to death. This is manifest in the way they interrogated the prisoners. In one case, for instance, the following constituted the entire capital trial:

²⁶⁴ It is rather difficult, possibly for my inadequate knowledge, to render the hadith from Arabic into English. The term wrathful (Arabic: غضبان) does not only signify a state of being angry, but also an all-encompassing spirit or mood that impresses all deeds and words.

²⁶⁵ See Montazeri, *Memories*, *supra* note 257, p. 636.

²⁶⁶ For a review of special courts in Iran see: ‘Iran: Islamic Revolutionary Tribunals’ Rules of Procedure’, (1980) 25 *ICJ Review*, p. 20.

“Q: Are you willing to condemn the Hypocrites?

A: Yes.

Q: Are you ready to go to the front to fight against Iraq?

A: Yes.

Q: Are you ready to walk on the minefields?²⁶⁷

A: Is everyone willing to do so? Plus, this is a high expectation from someone who has recently converted into Islam.

Q: Therefore, you are still *on your position*.”

The inmate was executed,²⁶⁸ but this was only one story which found its way to the letter of the designated successor to Supreme Leader; many stories are still to be told. Going through such appalling narratives, one feels how infectious fear is; it creeps into the minds of statesmen. The higher the source of fear, the easier it transmits through the veins of a political body. The only obstacle on its way, the only dam capable of blocking the flow is a courageous person. A *real* human being occupying a position somewhere in the *notional* State. State is an abstraction after all. Decisions are made and implemented by humans. Thus, all political and judicial decisions are subject to human attributes; those decisions are all-too-human, largely influenced and shaped by our human fears, empathy, and other traits of mankind. Most of these traits and most of our reactions stem from our archaic mind. In the political context of Iran in 1988, the mass execution decree was rebuked by many, whose psyche was still not fragmented, who could not perpetrate violence against parts of themselves, who could not spill the blood of the boys and girls of their own land. When Ayatollah Montazeri, in his first letter, calls for leniency for the prisoners, especially women, one can argue that the *bond* between himself and *other* [*i.e.* his feminine *self* for instance],

²⁶⁷ This was a tactic used by Iranian soldiers to break the blockades and the stalemates in the battlefield, by sacrificing themselves and putting their bodies on mines in order to open a pathway for their fellow-combatants.

²⁶⁸ In a letter to Ayatollah Khomeini, written on August 4, 1988, Ayatollah Montazeri recounts this story. See Montazeri, *Memories*, *supra* note 257, p. 633.

unlike Ayatollah Khomeini, is still sound and whole. This made him incapable of remaining silent and gave him reason to forgo his high position in exchange for retaining a *wholesome* self.²⁶⁹ Despite the fact that Ayatollah Montazeri's son was assassinated by the MEK, his psyche, I am convinced, was never overwhelmed by the archetype of *governmentality*; his mind was not overcome by *hierarchy*. But this might be rare among politicians, whose decisions are typically impressed by unconscious forces. A popular opinion among Iranians about the 1979 Revolution is that "everyone went nuts!"—the popular insanity can be well translated into academic terms: it was a symptom of a breakdown in the psyche of nation. Montazeri repeatedly warned the State of this psychic breakdown.²⁷⁰

The bodies of the thousands of Iran's youths are buried in a mass grave in Khavaran, in the southeast outskirts of Tehran; the trauma however can never be concealed. The psychic wound, the split, cannot be kept surreptitious; our collective psyche constantly manifests itself here and there. By executing her own children, Iran committed a suicide. One can even argue that each time a human is hanged a partial suicide is committed, a total failure of not only law and politics but humanity. Nevertheless, for those who would not want to delve into the bottomless complexity of historical events, the finger of blame immediately falls on the Leader of Iran. But I do not read history to revel in surfing events; instead I study such phenomena to probe their intricacies. Engaging with realities of history, while

²⁶⁹ For an etymological explanation on the connection between the terms *heal*, *whole*, and *bond*, see part two: *lack of bond*, *supra* note 181.

²⁷⁰ In one of his letters to Imam Khomeini, he wrote: "judicial authorities, the prosecutor, and the Intelligence Ministry are not at the level of Moqaddas Ardebili [a well-known Shia Grand Ayatollah with exemplary knowledge], and they make mistakes, and they are *impressed by a heavy and overwhelming mood* (Farsi: جو بسیار و فراوان)". The Farsi term popularly used to refer to people's mentality during the Revolution (=جو) is perhaps untranslatable into English, however it connotes a psychological and emotional state, something similar to mania and craze, that takes away rational control and unleashes rage. For Montazeri's letter see Montazeri, *Memories*, *supra* note 257, p. 629.

acknowledging the all-pervasive interconnectivity of issues, would disturb the comfort gained through and entrenched in oversimplifications. If Iran was *battered* like the girl in *Gallows*, and if her resorting to violence was perhaps a consequence of a chain of interrelated occurrences, should we then reduce justice to mere finding and punishing the wrongdoer? Would it not be absurd to only punish the felon, without further questioning *why* the crime was committed? How nonsensical would it be to simply penalize a suicidal patient and expect positive changes emerge from subjecting her to harsh discipline? What is the true meaning of justice for someone who murders herself? This is, of course, not to say that the perpetrator should go unpunished. But every crime is committed due to a number of reasons, and the reasons are to be dealt in order to bring justice to both victim and perpetrator. Justice does not solely belong to the victim; if the perpetrator had a fair share of justice, the crime might have never occurred. What enables a person to kill is not entirely stemming from their evil nature. It takes numberless elements to transmute a shepherd into a butcher. Blaming and reprimanding the perpetrator, in our case Iran, has been virtually the sole strategy adopted to deal with her violence. International organizations, States, the UN, the UNSC, and even Iranians themselves too often dismiss the complexities which give rise to such atrocities, and instead numb their conscience by putting the blame on the State. As though by finding the felon and punishing *her*, the problem will resolve! Oversimplifications of this kind stem, in part, from our misunderstandings of reality, our excessive engagement with self-made abstractions and all-too-material complications. In many areas at the international level, under a delusional impression, we still treat states as nonhuman entities—this is a misconception with dreadful consequences. This is an approach that only fearful or short-sighted actors will adopt, in order to evade the reality, with the vain hope of solving complex

issues by applying simple solutions. Similar to the story of “the Deep Thought”—with which I started my dissertation—we all have a powerful inclination for simplicity, which we hide in the guise of self-made intricate apparatuses. Justice ought not to be reduced to an oversimplified version of causation; *who* committed a crime is only secondarily important; the *why*—that gives birth to the *felon*—matters more. Without dealing with reasons, there will never be an end to catastrophes. No doubt, asking about such profound reasons will take us beyond material simplicities; one will have to engage with immense psychic attributes of humanity to fathom the *why*. The result, however, will be rewarding. Exploding the boundaries of legal materialism, manifest in our understanding of causation in politics, will undoubtedly transform our appreciation of justice.

In a similar vein, *Shepherds and Butchers*,²⁷¹ depicts a story which is pertinent to my argument. The movie portrays a felon’s story, charged of murder. The culprit, whose commission of crime is unchallengeable, was a warder in a high security prison during the Apartheid Regime in South Africa. He was responsible for carrying out executions in the prison, sometimes multiple executions in a single day. Before their execution, he sat down with them, feed them, groomed their hair, and on the last day, he had to walk them to the gibbet. One day, the warden, the shepherd, heard a voice resembling the sound of the [scaffold’s] trapdoor opening; the voice echoed in the hangman’s mind and revived his traumatizing memories of executing countless prisoners, with whom he had developed *bond*. Having lost his mind, he opened fire on a number of innocent people. His lawyer, in defence of his client, invoked mental automatism. He argued that the warden has been exposed to a

²⁷¹ Oliver Schmitz, *Shepherds and Butchers*, (Film, 2016, South Africa)

great number of executions, and thereby the trauma caused by his experience was rekindled by the voice, resulting in his momentary loss of will. Apart from the admissibility of the defence, the significant aspect of the story is a broader and more profound sense of causation—which also coincides with my theoretical assertion.²⁷²

Based on the observations in this chapter, I wish to reiterate that State is first and foremost a human entity, before bearing any other traits. Even the most crucial decisions, in parliaments, war rooms, think tanks, and the UNSC Chamber, are made not by systems per se, but this-worldly humans. Humans are the sole occupants of the political arena. It would be naïve to believe that a political structure, State for instance—which is barely older than 350 years in its modern [post-Westphalian] notion—is responsible for such instances of violence. Violence is a primordial phenomenon, found in humans and other animals, whereas State is simply too particular and too limited a notion for expounding violence. Although political systems can facilitate or perhaps hinder certain conducts, they are themselves expressions of human attributes. Various constructs are fabricated by humans. Nonetheless, even out of democratic elections, leaders like Hitler and Bush can emerge, on the contrary Anushiravan the just was not but a Shah in a monarchy. A mere structure cannot undermine the significance of personalities. This is, however, not to deny that State and its apparatuses can amplify human attributes. The verdicts of a fair-minded judge, in a healthy system, are

²⁷² The *bond* created between the warder and the inmates was forcibly severed. Each execution, partially carried out by the warder, cut a human *bond*, ultimately transforming a shepherd into a butcher. During executions, the mental *wholesomeness*, the state of mind predicated upon a realization of interdependence and mutual understanding of *other*, was lost. Lack of *bond* unleashed *governmentality* and gave rise to *hierarchy*. The *hierarchy* was expressed through resorting to means of violence. In other words, shooting the pistol, which the warder was in possession of, immediately became the physical manifestation of *hierarchy*. No surprise once one side of the equation was complete, *i.e. hierarchy* + lack of *bond*, the corollary, *i.e. violence*, was ineluctable.

undoubtedly more akin to justice, than the same judge's decisions in a corrupt and despotic system, operating under unfair laws. However, with respect to the mass executions of the 80s in Iran, had Montazeri sat in Khomeini's position, perhaps the massacre would never have taken place. But Ayatollah Khomeini, who had lost many of his closest friends in terrorist attacks, who had lived in exile for years, who witnessed Iranian youths defoliate before his eyes, crumbled. His disintegrated *self*, along with his political and hierarchical power, were virtually *all* that was needed for a tragedy like the 1988 mass executions.

In the end, I wish to conclude this chapter by pointing out an opportunity, or a platform for Iran to address the trauma of 1988. What occurred to Iran, with all of its psychic complexities, can neither be fathomed nor redressed through simplistic policies and laws. The matter requires an apt remedy, tailored to its idiosyncratic features. Iranians, throughout millennia, have utilized arts as a medium to deal with such complex issues. Art has been but the most powerful remedy for the suffering of Iranians. After Alexander's revenge, Arab's assault, and Genghis Khan's invasion, Iran has always risen from her ashes and debris and has recovered herself through arts.²⁷³ The dialogical and insightful nature of Iranian arts has always found its way to bring complex issues to the surface, in order to allow

²⁷³ Unlike politics, Iranian art has always engaged with historical issues in a dialogical fashion; it insightfully sees and accepts the reality, it accommodates *other* into her extended notion of *self*; unlike political ideas, it does not oppose or deny realities. It constantly engages in a process of healing, by bringing unconscious matters to the conscious level. After Alexander took revenge from Iran, during the Parthian Empire (247 BCE–244 ACE) the Iranian architecture brought the Greek influence to the conscious of Iran, a peaceful opportunity to deal with history and interact with its painful realities. What Alexander brought to Iran was added to the repository of Iranian self. After the humiliating Arab's invasion, Iranians started writing Koranic verses in calligraphic forms, they put Koran on the Haft-Sin altar (a pre-Islamic tradition of Nowrūz), and they used Arabic script to compose the most beautiful poems of Iran's history. They translated their historic wrath into aesthetic beauty. After Mongols, Iranians adopted a Chinese type of painting and invented a unique style of drawing, called Persian Miniature, depicting portraits of Mongol Khans. Iranian *self* through arts have been enriched by adding to her *being*, not by attacking the oppressor or vilifying the cruel leaders, but through embracing the entire reality and making a whole, whereby both victim and perpetrator can engage in a dialogue.

everyone to engage with unhealed unconscious traumas at a conscious level. The same can be, and must be, done for the 1988. Stories must be told to assuage and perhaps heal the trauma. But not all kinds of storytelling can be cathartic. An artistic expression must be, *inter alia*, sincere and insightful to heal, otherwise it will exacerbate the pain.²⁷⁴ The stories, however, are there to be heard and related. Mournful, but courageous *Mothers of Khavaran*,²⁷⁵ can remind us of Iran's suffering. This is a unique opportunity to commence the *lumpy* process of healing.

“Since then, at an uncertain hour,
That agony returns:
And till my ghastly tale is told,
This heart within me burns”.²⁷⁶

²⁷⁴ For a full description of an aesthetic system that can be utilized for human rights see: Milani, *Art and Human Rights*, *supra* note 19, pp. 151-154.

²⁷⁵ *Mothers of Khavaran* refers to the mothers and families of political prisoners who were executed in the 80s. They, notwithstanding the State's pressure, gather in the Cemetery of Khavaran, where thousands of the executed are interred, to commemorate their children. The voice of these brave mothers, who did not let the painful memories of mass executions be omitted from the political landscape of Iran, after decades of agonizing disregard, was finally heard and the debate returned to the political discourse inside and outside of Iran. The success of *Mothers of Khavaran* inspired families and mothers of victims of the bloody crackdown of the disputed 2009 Presidential Election in Iran. *Mothers of Laleh Park* is a similar assembly of families, who has bravely provided Iran with a departure point for the journey of reconciliation.

²⁷⁶ Samuel Taylor Coleridge, *the Rime of the Ancient Mariner*, (1798).

Conclusion: The Miracle of bond

After about seven years, seven agonizing years spent in the prison awaiting his death, his name was finally called by the warden to spend the last nights in solitary. The time had come and the end was never nearer. For him, however, the end was perhaps a relief from the worse-than-death anguish of death row. Bade farewell to his cellmates, as in every corner of the prison, the only audible sound was the portentous sound of clock-hands counting down his now numbered seconds. With every tick-tock, death crept further into his mind and body. After a few nights—which for him felt like an eternally-prolonged agony condensed in every second of it—in an early morning, before the dawn, the family of the young man, whom he had murdered seven years ago, were there for retribution. A few meters away from the sea, right in front of the Judiciary Palace, the scene was impeccably set. The scaffold was



All Photos of the story are taken by Arash Khamooshi for ISNA (Iranian Students News Agency); for the rest of the photos of the story visit: <http://www.isna.ir/photo/93012610549/>

erected, the chair, the well-measured and almost perfectly-tied noose, the throng, the vengeful family—who had also lost their other son in a car accident—and of course his own family and his mother, were all there. The punishment would have been incomplete without the presence of the criminal’s family. They, too, must register the death under the fresh rays of a newly-risen sun.²⁷⁷ As he took his final steps towards the gallows, trembling like a weeping willow—so say people in Iran—he could hear the crowd, who were there not to rejoice in voyeurism, but roaring for clemency. “The entire city” said Arash Khamooshi, the photographer of the story, “did not sleep the night before the execution; the fully-awake city gathered [in that morning] not to *see* but to demand forgiveness.” But there was no vestige of mercy whatsoever in the faces of the victim’s family, especially the mother’s. In all fairness, the tormenting pain of having lost two young sons to the arbitrariness of fate—such a bitter fate—is utterly unbearable for a mother. It is literally devastating. The mother of the murdered knew that she will be soon berated by the public for having killed the criminal,²⁷⁸ for wreaking revenge. It would be deeply unsettling for the town, even though it was said to be her *right*. She then took a microphone and addressing the clamouring multitude said: “I

²⁷⁷ Jacques Derrida, in his lecture, *the Death Penalty*, referring to public executions, maintains that “[N]ever is the sovereignty of the state more visible in the gathering that founds it than when it makes itself into the *seer* and the *voyeur* of the execution of an irrevocable and unpardoned verdict, of an execution. [T]his act of witnessing must be visual: an eye witness. It never happens without a stage and lighting, that of natural light of day or artificial lightning.” See Derrida, *the Death Penalty*, *supra* note 4, § 26. But in the case of our story, where it is the family of the victim who kills—not the State—I am not certain if it is the State seeing or demonstrating its sovereignty—or as Derrida says “lets itself be seen (French: *il se voit*). Perhaps, it is precisely an individual sovereignty, an individual right to kill and retribution, [not that of the State] that is being *seen*. The State itself, I think, is predicated upon such personal notions of sovereignty, such manifestations of *governmentality*. The State lets an individual [legally] kill another individual, to rekindle and remind everyone of *hierarchy*, a literally lethal *hierarchy*, for in the absence of sovereignty at the individual level, the State cannot retain its sovereignty. In a sense, the State is restating its sovereignty by invoking the *originary* and *primitive* foundations, wherefrom the State itself has risen.

²⁷⁸ Although the right to kill for retribution [Arabic: *Qisas*] is given to the father—or paternal ancestors of the victim—in practice and based on the cultural mores in Iran, it is virtually always the mother who permits the punishment or grants clemency, as though everyone finds the conscience of the mother, and her assessment of justice, more just than that of the father’s.



know that you will curse and insult me, but do you know that a mother's life, all of her life, is her children? Do you know what it means to weep tears days and nights for years?" The two mothers, on the two sides of this all-too-real tragedy, one awaiting her son's death—who had collapsed for she could not bear seeing, while holding her hands towards the sky begging and praying for a last-minute miracle—and the other about to exact revenge by killing the criminal, seemed far apart from one another, too far. The heartrending scene brought tears to any eye witnessing it.

Although people upon hearing her words reassured her that neither her nor her family would be told off, for it was—what some call—her *right* after all; but only a few meters away at the foot of the scaffold was a mother, whose long and weary plea for clemency made everyone question what is right and what is wrong? The sanction, no doubt, would torment the mother—and perhaps the entire city—but was it right to punish anyone but the wrongdoer in such an excruciating manner? In a few minutes, the felon's mother would begin



pinning away for the rest of her life; this—in the eyes of the city—was nothing resembling justice. The mother of the victim, inattentive to the bedlam, walked to the scaffold with her husband to seal the doomed fate. As she got to the gallows, she suddenly slapped the felon on the face. She then reached for the noose to perhaps tighten it. The whole city was registering the scene with a grim sense of foreboding. It seemed to be too late for both the felon and her inconsolable mother,²⁷⁹ but perhaps never too late for a miracle, for a miracle not descending from the sky but coming from a mother's heart, a miracle of empathy and *bond* with another mother. She did what no one expected in the town, but everyone kept a hopeful vigil for. She loosened the noose instead of pulling the chair with her husband. She,



²⁷⁹ An execution, seen from the eyes of a mother whose son is going to perish before her eyes, reminds me of a poem by Emily Dickinson. A mother's child, no matter what, is [accepted] like a flower, a Rose, whom only a Bee can *know*. Others, judges, the jury, the town, and the like may never 'know', may never 'miss', and may never 'sigh' for the defoliated Rose, unless they, too, know the Rose. *To know*, in this poem, I think, signifies the strongest of all *bonds*.

"Nobody knows this little Rose --

It might a pilgrim be

Did I not take it from the ways

And lift it up to thee.

Only a Bee will miss it --

Only a Butterfly,

Hastening from far journey --

On its breast to lie --

Only a Bird will wonder --

Only a Breeze will sigh --

Ah Little Rose -- how easy

For such as thee to die!" Emily Dickinson, "Nobody Knows This Little Rose," First published in *Springfield Daily Republican* (August 2, 1858).

and of course her husband, forgave him. The distance between a vengeful kill and clemency was perhaps her slapping on the man's face. Despite all the pain she had undergone, a *bond*, albeit fragile, between her and the mother of the man who killed her son was still unbroken. The gibbet erected to beget death became infertile for violence and will not transpire if a *bond* of some sort exists between the perpetrator and the victim. Afterwards, the two valiant mothers, weeping tears of relief, holding each other tight, celebrated harnessing the ferocious forces of *governmentality*.



Stories like this—which despite their frequency are simply lost amid the black and white fallacy of not only the popular media, but the mainstream academic literature on the death penalty—exhorted me to rethink the categories within which I deliberate capital punishment.²⁸⁰ The story of *Nour*, a small town in northern Iran, who rose to save a man's, a

²⁸⁰ I am fully aware of the fact that not all examples of the death penalty are identical to this story; the right to kill is most of the time exercised by the state, not individuals. But there is invariably always an individual behind all capital

criminal's, life, might not be appealing enough for those who benumb their conscience through oversimplifications. It perhaps does not supply the right material for long-term engagement in media or academia, for in oft-unheard narratives of this kind lies hope for real change, not mere socio-political categorizations suitable for innumerable reports and articles here and there, which at their best perpetuate a marketplace for their parasitic products.²⁸¹ Such anecdotes precisely challenge nugatory categorizations. Reflecting on such stories, I wondered if capital punishment is an individual matter whose attributes are shaped by humans and their idiosyncrasies and similarities, or rather, a national problem to be understood within the particularities of a certain religious and legal system, or perhaps an international issue that must be perceived in the intertwined fabric of international affairs and the relationship amongst states?²⁸² Upon reflecting on my personal experience of capital punishment, these categories immediately lost their appeal to me and left me with a reality irreducible to such abstractions. None of these delineations, on its own, could explain the

decisions. Judges, jury members, or leaders are all humans who make such decisions. Moreover, other aspects of this story, such as the role of public, human emotions, and the like are always present in all instances of the death penalty. Therefore, the merits of this story go well beyond an all-too-specific anecdote; in the narrative lies truths for those who see the Truth.

²⁸¹ In order to sell products of this kind, whose very existence and sensibility are predicated upon the [existence of the] problem itself, the problem must persist and remain unsolved to justify such pseudo-contributions. In other words, real contribution to understanding a problem, which can facilitate real engagement with the problem and perhaps ultimately engender a real change, is antithetical to abstractions and self-made categorizations. This illustrates a deep fallacy in many areas within the modern notion of academia, as well as an unconscious resistance against methods and approaches necessitating real engagement with subject-matters. Without real engagement, problems continue to exist, and existing problems are the sole justification for writing yet another article, holding yet another conference, and so forth. This resembles a bottomless antinomy, which results in nothing but—what Payam Akhavan calls—“the illusion of progress”. See for instance, Payam Akhavan, “Proliferation of Terminology and the Illusion of Progress,” (2007) 2(1) *Genocide Studies and Prevention: An International Journal*, Article 9.

²⁸² An interesting example of the interrelatedness between international affairs and the death penalty can be found in recent political developments at the international level. Right after the nuclear deal [The Joint Comprehensive Plan of Action] was signed between Iran and the 5+1, which might be understood as a sign of *bond*, a bill for abolition of the death penalty for drug-related crimes—constituting an overwhelming majority of executions in Iran—was ratified in the judicial commission of the Iranian Islamic Parliament. To some, these two may appear irrelevant, a mere coincidence, but to me, there is a vivid correlation between the two.

complex issue of the death penalty. Nonetheless, while I maintain that dismissing any of these aspects will inevitably lead to misunderstanding capital punishment, I think among such narratives—or to be more precise at the intrapersonal level—one can seek the originary and essential *primordium* of other aspects of the debate on the death penalty. To put it differently, if there is a stem-cell, so to speak, for the political question of capital punishment—within various religious, national, and international fields—it resides *within* individuals. The *intrinsic* elements of the death penalty are to be sought within us, in our psyche, thus the other dimensions of capital punishment are *extrinsic*. One must not confuse—and overestimate the significance of—an extrinsic issue, especially if doing so can lead to dismissing the intrinsic. Politics, religions, customs, even laws themselves are the outermost layers of the capital punishment's reality. They are shells to a core.

However, one may argue that religion, Islam for instance, and its interpretations play an undeniable role in the death penalty, its implementation, abolition, and so forth. It might not be merely a shell, but the core, of the problem. This, I would argue, is—merely ostensibly—true. Various religious readings are but human products, born out of our human inclinations, attributes, and desires. Islamic rules, for instance, can be read just as leniently as they could be understood in a merciless fashion. There are numberless examples of Ayatollahs and Faqihs who not only oppose the death penalty and its implementation—especially in public—but do also call for readings of Sharia on the basis of *reason* and in accordance with contextual necessities.²⁸³ But it is always simpler to ascribe violence to a system of belief rather than an individual—who bears perhaps too much resemblance to all

²⁸³ See for instance Hussain Ali Montazeri, *[Responses to Questions Regarding] Islamic Punishments and Human Rights* (Translation from Farsi is mine), (Qom, Arqavan-e Danesh Publications, 2008), pp. 86-112.

of us! It is always much easier to attack an impersonal system, rather than encountering the immense complexities of a person. Moreover, regarding Islam and the death penalty, the Koran itself, as the most sacred scripture for Muslims, is literally *replete* with verses calling for clemency and forgiveness, while only a few verses establish the basis for retributive punishments.²⁸⁴ This is, of course, not to deny that certain structures, systems, and constructs may amplify certain attributes of humans. These are all to note that too often violent leaders disguise their aggression in the cloak of the so-called authentic readings of religion, while on the other hand, just leaders, reading the same scripture, conclude the opposite. Therefore, in the absence of violent readings embraced by blood-thirsty individuals, neither Islam nor any other system can generate death on its own; I humbly think that Islam is not, what William Schabas calls, an “insurmountable obstacle”;²⁸⁵ what could be an insurmountable obstacle, however, is our inclination towards oversimplification and self-made abstraction in order to evade the complexity of human aggression. Needless

²⁸⁴ Although at issue here is not the possibility of abolition [of the death penalty] within Sharia per se, I maintain that the Koranic verses—should political and personal will exist—can provide religious ground for abolition. In a Koranic verse pertaining to Qisas (5:45), right after the rule is expressed, the verse states that “[b]ut whoever forgives [which is likened to giving to charity and doing good], atoned will be their sins”. Throughout the Koran, pardon and forgiveness are encouraged in a much more manifest fashion than that of Qisas and retribution. For instance, in Al-e Omran surah, the Koran states that “[w]ho restrain[s] anger, and pardon[s] [all] people, for Allah loves those who do good.” (3:134)

Another oft-neglected issue is the most frequent verse in the Koran, which stresses, more than anything else, the mercifulness and compassionateness of God. Why then Islam becomes a pretext, in certain contexts, for resorting to violence? My humble answer is that nothing is inherently violent, but in a violent [=hierarchical and bondless] environment, anything can become violent. Think of water, which can be used to crackdown a rally using a water-canon, or to torture one through waterboarding. How nonsensical would it be to say that ‘water’ is the cause of violence? We are all, unfortunately, living in a violent world. Given such a context, utilizing anything for violent purposes will only surprise those who are either shortsighted or dismissive of the jungle we live within!

²⁸⁵ William Schabas, *Abolition of the Death Penalty in International Law*, 3rd ed. (Cambridge: Cambridge University Press, 2002), p. 365. Although he notes that “it would seem that ancient religious texts are more of a pretext than anything else for the enthusiastic resort to capital punishment by what are profoundly undemocratic and repressive States”, he still attributes the use of capital punishment to yet another system, i.e. State. Later, in the conclusion of his seminal work, he maintains: “International law arguments may be less convincing in the Islamic world, where an entrenched and immutable religious doctrine insists upon the death penalty in certain cases.” See *ibid*, p. 377.

to say, human aggression will ultimately express itself in some sort of fashion. The madman would inevitably spill blood, no matter what religion or politics, no matter what the pretext to do so is, a Buddhist's Sutra or a Muslim's Koran, a UNSC resolution or a referendum to reintroduce the death penalty; it always takes violent individuals to perpetrate violence. The human aggression, or kindness, will inexorably translate itself into religious or other socio-political conducts. However, as I noted earlier, religion is merely an example. A similar argument can be put forth with regard to national and international manifestations of violence. In the light of this approach, it would be naïve to remain within self-made abstractions and forget that the sole occupants of the political arena are, after all, human individuals.

Acknowledging that the death penalty may be better fathomed through an intrapersonal prism can inform us on the national and international debates on execution. Therefore, by the same token, both constituent elements of capital punishment, *i.e. hierarchy* and lack of *bond*, too, can be perceived through such a lens. A perspective of this kind, which can make visible primordial aspects of execution, can help us acquire a more realistic and complex understanding of not only the death penalty, but human aggression. Hierarchical structures and fatal *governmentality* at the international level are, I am convinced, manifestations of human *governmentality*, which are only materialized at a larger scale. Although it is necessary and quite informative to scrutinize *governmentality* at various levels, the *archetype* lies within the psyche of every one of us. To overcome the lethal forces of *governmentality*, inventing yet another world order will never be sufficient; viable changes at the international level, first and foremost, require substantial transformations at the individual level. Without such, abolition of the death penalty will remain a *fata morgana*.

Moreover, regarding *bond* and lack thereof, we must bear in mind two critical issues. One is that the notion of *bond*—and its key role in violence—must be extrapolated to and acknowledged at the international level in order to deal with problems such as the death penalty in a more holistic and effective fashion. Second, and more importantly, is that *bond*—like *governmentality*—will be better understood if we see it through the prism of psyche, at the intrapersonal level. In other words, and figuratively speaking, the national and international expressions of [lack of] *bond* are rays of an oft-neglected reality emitted from the orb of psyche, from the innate attributes of individuals.

When I first began writing my dissertation, while my ideas were too raw and my argumentation was even cruder, I imagined that *hierarchy* and *bond* both exist, independently, at various levels, at individual, national, and international levels. Soon, I began making observations of numerous changes, in manifestations of both *governmentality* and *bond*, in my homeland at the individual level: in Iran, mindless hierarchical structures in families, for instance, have been replaced by more meaningful structures;²⁸⁶ at the same time, a notion of *bond* among citizens has been gradually reviving.²⁸⁷ These are, of course,

²⁸⁶ Regarding conjugal relationships, for instance, a considerable number of articles of Iranian Civil Code are practically abandoned by young couples, who no longer enter a marriage for reproducing a State-desired structure, but for sharing a life through bonding. Lack of *bond* between men and women, which has been historically and systemically pursued by authoritarian governments, leads to unrestrained manifestation of *governmentality*. Families formed merely based on the desires of [the archetype of] *governmentality* foster but insecure children who do not feel safe in the absence of a hierarchical power, be it a father or an authoritarian state. This is no longer the case in modern Iran. Iranian youth, by incorporating certain terms in the contract of marriage, in a sense, seek a less-hierarchical legal structure to build a family. I do not think that children of such families, brought up with love and care, could tolerate an authoritarian system.

²⁸⁷ In recent decades, Iranian people have been actively engaging in civil societies, dealing with issues which used to be taken care of by the State. Regarding health care, for instance, one of the largest charities in the Middle East for children with Cancer, named *Mahak*, despite backbreaking sanctions and other difficulties, has been providing health care, building hospitals, for Iranian, Afghan, Iraqi and other refugee children who suffer from cancer. This civil society, entirely based on popular donations—in a country that has been grappling with an 8-year war, its consequences, and countless social and financial difficulties—is but a sign of revival of *bond* not only among Iranian citizens but at a universal level, where an Iraqi child receives the same care as an Iranian. Moreover, numerous

promising changes. But a question always persisted in my mind. How could I envisage a world without gallows, while every instance of the death penalty was at the same time inextricably entangled with countless individual, national, and international issues? On the one hand, were heart-warming changes among individuals, and on the other the fledgling international order was more akin to the law of the jungle, with ubiquitous aggression. Such a violent environment, undoubtedly, influences both states and citizens. Thinking of abolition, within a hierarchical—and hegemonic—structure, with no [recognition of the importance of] *bond* whatsoever among states, is a naïve aspiration. In fact, on reflection, I realised that as *hierarchy* and lack of *bond* are shrinking and fading among individuals, the residual of our archaic attributes is still vocally echoing in the international jungle. Lack of *bond* and lethal *governmentality* are symptoms of the individual psychic divide, from which we all suffer. Perhaps the gap between *I* and *other*, deeply embedded in my psyche, notwithstanding express changes that I have gone through, is still wide; perhaps my individual *governmentality*, reified in my every-day greed and disguised in my obscure aggression, is still far from being tamed. Perhaps such incomplete personal missions to overcome fear and insecurity, to *see* the world through a *bond*-based attitude, is the reason we still witness members of humanity die on gallows. Perhaps due to this, *i.e.* for having not recovered and healed from my personal psychic divide, I—and maybe all of us—share accountability in the next man's death on the gibbet? I am, nonetheless, convinced that generating *bonds*, instead of erecting walls, can take us a few steps towards a world, wherein

environmental campaigns for animals' well-being, reforestation, and so forth have been taking place in Iran. Similar to Orca Whale rescue teams around the world, signifying the notion of *bond* among *all beings*, these demonstrate changes at individuals and communal levels.

gallows are merely found in museums, and not public squares where pleasant childhood memories, like those of mine, are eternally tainted by a man hanging from a crane. Perhaps what appears to be an ‘insurmountable obstacle’ may be overcome through generating and reviving *bonds*?

Without sounding like a utopian idealist, my speculation—and hope—is that once individuals overcome their insecurities, once the forces of *governmentality* are under control, and an attitude predicated upon *bond*, instead of fear, shapes human conduct, the issues—pertaining to violence and capital punishment in particular—at both national and international levels will be, in time, resolved. However, it would be a truism to say that we are—perhaps astronomically—far from that point. But it is also clear that the later we make a choice, the more insuperable the problems will become. Any second that passes without addressing *hierarchy* and *bond* in ourselves, without engaging with limitless intricacies of violence within us, takes us a second closer to the next member of humanity who will suffer and perish on the gibbet. The choices are clear: a collective and gradual suicide of humanity, or embracing the complexity and confronting the violence in every one of us. The latter takes mother-like courage, while the former takes apathetic hebetude. And “until death is outlawed”,²⁸⁸ we all can see ourselves, either hanged or otherwise, in Goya’s *Here Neither*—which encompasses fathomless realities in boundless images. But if any execution is humanity’s suicide, is there any difference at all between the lifeless victim and the callous bystander? Is that why both men in the painting look—despite outward differences—identical?

²⁸⁸ Albert Camus, *Reflection on the Guillotine*, *supra* note 22, p. 179.



Francisco Goya, "Aquí no" (English: Here Neither) (Etching, Caricature, 1812-1815) in *Los desastres de la guerra* (English: *Disasters of War*)

Epilogue

Like Cathy Harrington, who finally found light in the dark, by forgiving her young daughter's murderer,²⁸⁹ I have also started my journey, I have also begun to *see* and to *hear*. And as I explore further, I am awed by how similar beauty and justice are. Justice is beautiful, and beauty is but a fragile harmony. It is as frail as the autumnal leaves. Everyone partakes in the *art of justice*, everyone plays a piece in the orchestra, everyone draws an image on the canvas. If you can *hear*, you can never dismiss "the sound of a head falling";²⁹⁰ if you can *see*, you can never disregard a human dying. You cannot rest easy, as everyone has a hand in the scene. There is no audience, no onlooker, we are all participants in the collective and constant exercise of protecting the equilibrium of justice. To re-create the long-lost harmony, however, one must not avert their eyes from any member of the orchestra. To revivify the equilibrium, the executed and the executioner, the good and the evil, the beautiful and the disgusting all must be given care and empathy. Annihilating a member—any member—is destroying the justice, is obliterating the harmony, and the *whole*. But to fathom the harmony, to appreciate justice, to *hear* the music and to *see* the painting, one requires wisdom. "To see a World in a Grain of Sand, and a Heaven in a Wild Flower",²⁹¹ one must *see* beyond the veils. And how many times, with my vocabularies, I have drawn a veil over grim realities, silencing the voices and omitting the images of what I dared not *see* and *hear*...

²⁸⁹ See Cathy Harrington, "A Mother's Story," in *No Human Way to Kill* (Seabrook Press, 2009, England), pp. 7-10.

²⁹⁰ Albert Camus, *Reflections*, *supra* note 22, p. 133.

²⁹¹ William Blake, *Auguries of Innocence* (Poetry, 1803).

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