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State of Perpetual Emergency: Legally Codified State Violence in Post-Revolutionary
Iran and the Contemporary U.S.

A Dissertation submitted in partial satisfaction
of the requirements for the degree of

Doctor of Philosophy

in

Comparative Literature

by

Shabnam Piryaee

March 2018

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ABSTRACT OF THE DISSERTATION

State of Perpetual Emergency: Legally Codified State Violence in Post-Revolutionary
Iran and the Contemporary U.S.

by

Shabnam Piryaei

Doctor of Philosophy, Graduate Program in Comparative Literature
University of California, Riverside, March 2018
Dr. John Kim, Chairperson

My dissertation is focused on one question from different cultural and historical sites: what is a perpetual state of emergency and how is it used to enact state violence? Generally, I hope for this dissertation to stage an intervention in, and to open questions and investigations around, violence, condemnation, ethics, and the law. More specifically, through this project I seek to read explicit legal state violence in post-Revolutionary Iran to elucidate more implicit legal state violence in the contemporary U.S. In the Islamic Republic of Iran, the state does not conceal that it functions as what Édouard Glissant calls a “root model” with hierarchical and fixed moral parameters determining the laws of the country; in fact, the government publicly touts its widespread deployment of violence in order to deter individuals—condemned as enemies—who may try to deviate from, or challenge, the laws.¹ In the U.S., the state rhetorically reinvents seemingly new crises—such as the War on Drugs—to sustain the notion of an enemy

¹ Glissant, Édouard. *Poetics of Relation*. Trans. Betsy Wing. Ann Arbor: U of Michigan, 1997. 11-18.

warranting the state's use of violence. While I investigate published texts that pertain to the U.S. system, I have chosen to examine Iranian cinema—rather than published texts—as a venue for critical discourse addressing the issue of state violence. Ultimately, this project proposes the following inquiries: how can a reading of state violence—legal, juridical, rhetorical, and physical—in post-Revolutionary Iran elucidate concealed state violence in the contemporary U.S.? What is at stake when one compares U.S. legal and juridical systems with those of the Islamic Republic of Iran? How can our relation to law be critically and creatively re-imagined?

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Introduction

This project scrutinizes the law and its relationship to violence, aiming to reassess the parameters for discerning a state of emergency. My research is informed by discourses, models and ideas central to Comparative Literature, Ethnic Studies, Iranian Studies, Legal Studies and Film Studies; I use an interdisciplinary approach to investigate state violence, crisis-production and enemy-designation through a juxtaposition of two regions that for decades have held little to no public diplomatic relationship. My research seeks to read explicit legal state violence in post-Revolutionary Iran to elucidate implicit and coded state violence in the contemporary U.S. Specifically, this text considers states of emergency that are not exceptions to the rule, but rather integral to the ideology behind, and formation of, the rule (i.e. the legal, economic, educational and political institutions of the nation).

As Édouard Glissant points out in *Poetics of Relation*, Western state institutions are founded on the model of the root, rather than the rhizome, and therefore rely on the perpetuation of fixed hierarchies to survive.² In the Islamic Republic of Iran, the state does not conceal that it functions as a root model with fixed moral parameters determining the laws of the country; in fact, the government publicly touts its widespread deployment of violence in order to deter individuals who may try to deviate from, or challenge, the laws. The ideology underlying the Islamic Revolution, and the government founded through this upheaval, relies on the concept of an ongoing state of emergency and a corresponding perpetual threat that aims to destroy the Islamic state. This threat—

² Ibid.

namely moral corruption that occurs in any circumstances of infiltration from the West—has remained unchanged since the establishment of the post-Revolutionary nation.

In the U.S., rather than acknowledging the foundational state of emergency that underpins the state's institutions, the state rhetorically reinvents seemingly new crises—such as the War on Drugs—to sustain the notion of an enemy warranting the state's use of violence. This rhetorical emergency conceals the codified, fundamental state of violence that undergirds American institutions. For example, scholars such as Michelle Alexander and Angela Davis trace discriminatory legal and judicial practices in the U.S. back to the period during which slavery was legally practiced, and profited from, in the American colonies, and mark some of the strategic linguistic and textual transformations that take place legally and culturally to make it difficult to hold state violence accountable.³ As a result, the racialized American legal system is treated as an ailment that can be altered through reforms over time rather than through a radical re-imagining of American legal, political and judicial institutions.

It may be difficult to recognize why these two regions merit a comparative approach; at these unexpectedly linked sites of activity, one sees congruencies of rationalization and enforcement of law. The coercive and sexualizing patriarchy; the strategic and rampant deployment of enemy-condemnation and isolating binaries; the explicit religious, ethnic, gender and sexual discrimination; the militarization of police;

³ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2012.

Davis, Angela. "Race and Criminalization: Black Americans and the Punishment Industry." *The House That Race Built: Original Essays by Toni Morrison, Angela Y. Davis, Cornel West, and Others on Black Americans and Politics in America Today*, edited by Wahneema Lubiano, Vintage Books, 1998.

and the punitive rather than rehabilitative use of prisons, all expose a similitude between two regions that have historically made tremendous efforts to distinguish themselves from, and repudiate, one another. The fabrication of an enemy is employed to enact legally sanctioned violence: in the U.S. through a network of rhetorical, political, economic, legal, juridical and militaristic violences descending, in part, from the codification of white supremacy, and in Iran through ongoing assaults enacted in the name of preserving and protecting the Islamic Revolution against Western and non-Muslim infiltration.

Drawing on and departing from Alexander Weheliye's critique of Giorgio Agamben's notion of the state of emergency, I ask: how can a reading of state violence in post-Revolutionary Iran elucidate concealed state violence in the contemporary U.S.? What is at stake when one compares U.S. legal and juridical systems with those of the Islamic Republic of Iran?

While I investigate published texts that pertain to the U.S. system, I have chosen to examine Iranian cinema—rather than published texts—as a venue for critical discourse addressing the issue of state violence. Due to meticulous and punishingly surveilling censorship by the Iranian state, there is little possibility for textual critiques of state violence to be published or disseminated by those who reside in the country. Cinema, however, through allegory and poetic aesthetics, does provide a venue for critical discourse in Iran—authored by those who live in the country. I read post-Revolutionary Iranian cinema-as-discourse as a site at which critical interventions in state violence can be staged.

I focus on racism, patriarchy and other state violence in American institutions because I read state violence not as a marginal or demographically localized issue, but as integral to every national institution in which I participate as an American; I read it as my inheritance and therefore my personal responsibility. I address racialized and gendered state violence in the U.S. as foundational to the formation and reinforcement of a state. Studying this violence involves disclosures of implicit and ubiquitous violence, and investigations of what it means to aspire to justice. This reading recognizes the interrelated nature of our individual, national and global histories, and our incalculable responsibility toward one another. Such a framework of critique seeks to challenge and bring to light philosophies—such as those of John Locke—that underwrite the Constitution and the Declaration of Independence, and which present the concept of the subject as an autonomous, sovereign individual. Ultimately, this examination is motivated by a desire to elucidate the contradictions, closures and foreclosures that are foundational to the American legal and juridical systems in order to imagine and enact practical strategies for a more radically open, rhizomatic, and far less violent configuration.

In Chapter 1, *Perpetual State of Emergency*, I seek to scrutinize the law and its relationship to violence, to consider theoretical discourse around the state of emergency. Reconsidering the parameters for discerning a state of emergency, I read states of emergency that are not exceptions to the rule, but rather integral to the ideology behind, and foundation of, the rule, in order to posit what I call a “perpetual state of emergency.” Specifically, I examine Alexander Weheliye’s critique of Giorgio Agamben’s reading of

the state of emergency to explore that which Agamben's epistemological framework excludes, diminishes and conceals.⁴ I also consider Jacques Derrida's "Force of Law" to explore the conceptual possibilities of the relations between law and justice, focusing specifically on the role of *aporia* in the theory and practice of law. Additionally, I integrate into my broader analysis readings from Walter Benjamin's "Critique of Violence," Robert Cover's "Violence and the Word," and Austin Sarat's work around law and violence.⁵ This interrelated theoretical discourse is advanced toward a reading of the case of Joseph Kent, a protester arrested during a state-declared curfew in Baltimore, MD, in order to explore the contemporary militarization and legal justification of various state violences in a state of emergency.⁶

In Chapter 2, *Enemy of the State*, I shift my analysis from theory to more close examinations of specific texts and films; additionally, I shift geographies, re-locating my reading from the contemporary U.S. to post-Revolutionary Iran. In the name of protecting the Islamic state against Western and non-Muslim infiltration, the post-Revolutionary Iranian government imparts ongoing legally sanctioned violence. I examine post-Revolutionary Iranian cinema-as-discourse as a site at which critical interventions can be

⁴ Weheliye, Alexander G. *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human*. Duke University Press, 2014. 1-9, 29-36, 56-88.

⁵ Benjamin, Walter. "Critique of Violence." *Reflections: Essays, Aphorisms, Autobiographical Writing*. Trans. Edmund Jephcott. New York: Schocken, 1986. 277-300.

Cover, Robert. "Violence and the Word." *Yale Law School Faculty Scholarship Series*, 1986.

Sarat, Austin. *Law, Violence, and the Possibility of Justice*. Princeton University Press, 2002

⁶ CBS News. "Baltimore Protester Joseph Kent Speaks for First Time after Arrest." *CBSNews*. 30 Apr. 2015, <http://www.cbsnews.com/videos/baltimore-protester-joseph-kent-speaks-for-first-time-after-arrest>.

staged in state violence. Through a reading of Ayatollah Ruhollah Khomeini's *Velayat-e Faqih*, a founding national text that establishes strict moral and legal containments, this chapter seeks to elucidate the tension between Khomeini's insistence on the objective application of divine Qur'anic law in an Islamic government and the inherent subjectivity and ambiguity involved in the act of reading any text.⁷ Cinema-as-discourse, specifically post-Revolutionary Iranian cinema, can serve as a means of disclosing and subverting binaries such as good and evil through which post-Revolutionary censorship is structured, and which undergird the legal, penal and governmental systems in Iran. In this chapter, I turn to the work of Hamid Dabashi, Kamran Rastegar and Negar Mottahedeh for a consideration of film theory, and the work of Judith Butler, Charles W. Mills and Jacques Derrida for a consideration of the complex and subjective practice of interpretation.⁸ Using the work of these scholars, and my own reading of Khomeini's text, I analyze three films: Jafar Panahi's *This is Not a Film* (2011), Bahman Ghobadi's *Turtles Can Fly* (2004), and Asghar Farhadi's *A Separation* (2011), as sites of discourse that strategically employ ambiguity as a means to disclose and undermine the authority of the Iranian government's punishing morality that buttresses the state's perpetual of emergency, in order to challenge the laws derived from it.

⁷ Khomeini, Ruhollah. "Velayat-e Faqih." *Islam and Revolution: Writings and Declarations of Imam Khomeini*. Translated by Hamid Algar, Mizan Press, 1981.

⁸ Butler, Judith. *Frames of War: When Is Life Grievable?* London: Verso, 2010.

Derrida, Jacques. "Signature, Event, Context." *Limited Inc*, Northwestern University Pr., 2008.

Mills, Charles W. "White Ignorance." *Race and Epistemologies of Ignorance*, edited by Shannon Sullivan and Nancy Tuana, State University of New York Press, 2007.

In Chapter 3, *Crisis and Condemnation*, I examine the rhetorical violence that is used to sustain and validate state violence in a perpetual state of emergency. In this chapter I explore the ways in which condemnation is employed, as well as other languages which are utilized to conceal violence through 1. a guise of fairness, in the case of the U.S., and 2. benevolence, in the case of the Islamic Republic, and by what means these rhetorical strategies intersect and diverge from one another in the two regions. I employ a reading of Walter Mignolo's theory of the "zero point of observation," Cheryl Harris' reading of whiteness as property, Michelle Alexander's reading of colorblind rhetoric, Walter Benjamin's preference for the "mosaic" rather than the "symbol," and Tahmineh Milani's 2001 film *The Hidden Half* to consider questions of linguistic and material mastery, domination and accountability in the context of a perpetual state of emergency.⁹

In Chapter 4, *Woman as Threat, Nation as Man*, I specifically examine legal gendered state violence in both the contemporary U.S. and post-Revolutionary Iran as intrinsic to the perpetual states of emergency in both regions. Drawing from the work of Marguerite Waller, I consider through what means the nation in a perpetual state of emergency is read as "male" and how the practice of enemy-condemnation integral to

⁹ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2012

Benjamin, Walter. *The Origin of German Tragic Drama*. Verso, 2009

Harris, Cheryl. "Whiteness as Property." *Critical Race Theory: The Key Writings That Formed the Movement*, edited by Kimberlé Crenshaw, Neil Gotanda, and Kendall Thomas, The New Press, 1995.

Mignolo, Walter. *The Darker Side of Western Modernity: Global Futures, Decolonial Options*. Durham: Duke UP, 2011.

such a system designates woman, and that which is “womanized” regardless of gender, as a threat.¹⁰ I read together the work of Negar Mottahedeh and Laura Mulvey to consider gaze theory in the Islamic state, and its corresponding gendered violence and skewing of accountability for violence by men against women. Specifically, I look at Asghar Farhadi’s film *The Salesman* (2011) as an intervention in this gendered state violence. I then examine the work of Roxanne Dunbar-Ortiz in conjunction with Supreme Court Justice William Rehnquist’s opinion in the 1978 U.S. Supreme Court ruling in the case of *Oliphant v. Suquamish Indian Tribe* as an example of legal gendered state violence in the U.S. to consider how the presence or absence of laws pertaining to gender in a state of emergency (such as laws that mark a woman’s body as a site of corruption) impact the rights of women interpersonally and institutionally.

In Chapter 5, *Otherwise Law*, I propose the concept of radical openness, in the development of which I cite the theories of Relation in Édouard Glissant’s work, infinite suggestiveness in Trinh T. Minh-ha’s work, otherwise in Nahum Chandler’s work, precariousness in Judith Butler’s work and phantomization in Avital Ronell’s work to envision radically open possibilities of engaging with the law that can potentially resist legal violence in a perpetual state of emergency.¹¹ Through a reading of the concept of

¹⁰ Waller, Marguerite. “The Voice of Woman in Contemporary Society: Women, Not Wives,” <https://dspace.uah.es/dspace/bitstream/handle/10017/4848/The%20Voice%20of%20Woman%20in%20Contemporary%20Society.%20Women%20Not%20Wives-Hillary%20Rodham%20Clinton.pdf?sequence=1&isAllowed=y>.

¹¹ Butler, Judith. *Frames of War: When Is Life Grievable?* London: Verso, 2010

Chandler, Nahum Dimitri. *Toward an African Future: Of the Limit of World*. Living Commons Collective, 2013.

Glissant, Édouard. *Poetics of Relation*. Trans. Betsy Wing. Ann Arbor: U of Michigan, 1997.

radical openness, I seek to emphasize that the dominant epistemological framework is a choice among other possibilities that have been excluded, concealed, or criminalized in order to perpetuate a myth of normalcy. Through this concept I also consider the dynamic between our ethical entanglements and our mutual responsibilities. I focus specifically on two of Trinh T. Minh-ha's films, *Surname Viet Given Name Nam* and *The Fourth Dimension*, as well as Angela Davis's proposal for the abolition of prisons, as approaches in the practice of radical openness in language and in law. Davis proposes prison abolition not simply as the eradication of individual prisons, but as an interconnected process of simultaneous dismantling and building; that is to say, her critique provides critical analyses of the violence enacted through the prison industrial complex, while also imagining and constructing more compassionate and accountable legal and judicial possibilities that do not echo current American systems and institutions.¹² She observes that demonstrating the feasibility of prison abolition is key to the project of critically re-imagining the state, and that "one of the greatest challenges is to persuade people...that a world without prisons is conceivable."¹³ In this way, Davis draws attention to a colonization of the imagination that operates through a strategic and violent normalizing process of contemporary violent state practices.

Ronell, Avital. *The Telephone Book: Technology, Schizophrenia, Electric Speech*. Lincoln: U of Nebraska, 1989.

The Fourth Dimension (Trinh T Minh-Ha, 2001)

¹² Davis, *Abolition Democracy*, 54.

¹³ *Ibid.*, 59.

CHAPTER 1

Perpetual State of Emergency

When has it become a matter of fact—more than evidence, and yet not a self-evident “truth”—that a (perhaps never to be known) number of young males and females perish as subjects of law’s preserving violence?¹⁴

Power operates in non-explicit ways, in indeterminable modes that exceed the economy and language of law. The fiction of the transcendence of law, of law being equal to justice, of law being committed to the needs of the people, must be scrutinized at every enunciation. What is the cost of demanding compliance with, and enforcement of, laws without reassessing, prior to each act of enforcement, law’s relationship to justice? How different is the enforcement of law in crisis from the enforcement of law in non-crisis? Is there ever a space of non-crisis in the state’s narrative of the violence it exercises; or is it simply a matter of state violence being more or less concealed, more or less visible?

This project is concerned with the state of emergency; with the sense of exceptionality and urgency that the term “emergency” imparts; with the violence enacted in its name; and with the myriad parallels between two nations—Iran and the United States—that make tremendous efforts to distance themselves from one another’s political and legal identities. In this chapter, I seek to investigate Giorgio Agamben’s reading of the state of emergency and its contemporary relevance, particularly in relation to U.S. state violence in black American communities. Employing Alexander Weheliye’s

¹⁴ Da Silva, “No Bodies,” 119.

critiques of Agamben, I explore that which Agamben's theory of the "state of exception"—and its epistemological framework—excludes, diminishes and conceals.¹⁵ I consider an example of an explicit and publicly declared state of emergency in the U.S., through a reading of the arrest of Joseph Kent, in order to disclose various registers of violence through which states of emergency operate. I wish to analyze through what means the state justifies its violence, as well as how the formal declaration of a state of emergency in the U.S. occludes the perpetual state of emergency that is historically and legally embedded in the state. Publicly declared states of emergency, such as the one in Baltimore, MD during which Kent was arrested, are generative sites of close reading when considering the perpetual state of emergency in the U.S. On one hand, they provide insight into the relationship between law and justice in a state of emergency; on the other hand, explicitly declared states of emergency are offered by the state as an exception to the rule. The unconcealed and public performance of an openly declared state of emergency serves to conceal the continuous state of emergency and state violence embedded in the formation of this nation and its institutions. I employ a reading of Jacques Derrida's "Force of Law" to consider the workings of *aporia* in discourse about, and in the enforcement of, the state of emergency, as well as to gesture to possibilities for more non-violent relations with the law. According to Derrida, *aporia* is an "interminable experience" that disarms and exposes; it is an impasse that should be inhabited rather

¹⁵ As I point out later in this chapter, Agamben has chosen to use the term "state of exception," as it is referred to in German. However, I have elected to use the term "state of emergency," in order to emphasize both the non-exceptionality, and the coerced sense of crisis, of a state of emergency.

than escaped or overcome.¹⁶ *Aporia* is “paradox”; it is irresolvable and reveals the limits of interpretation and language.¹⁷ In his work, Derrida examines mourning, forgiveness, hospitality, giving, and one’s responsibility to the other as *aporias*. For example, regarding forgiveness, Derrida writes, “forgiveness forgives only the unforgivable,” and that “there is only forgiveness, if there is any, where there is the unforgivable. That is to say that forgiveness must announce itself as impossibility itself. It can only be possible in doing the impossible.”¹⁸ In this way, forgiveness must acknowledge its own limits—including the impossibility of its own conclusion, and it must accept and declare the paradox of its possibility and impossibility in order for it to be possible. Thus, as I will elaborate later in this chapter, justice is also *aporia*. It is both possible and impossible; one can never fully “arrive” at justice, one can never be just, and yet despite the incalculability and immeasurability of justice, and of just-ness, one should aspire to it, just as one should aspire to give, to mourn, to forgive. Arundhati Roy writes that there is no society in the world, and I would add, no individual, “that is a just or perfect one—but we cannot ever stop striving towards justice.”¹⁹ She goes on to write that “justice is a grand, beautiful, revolutionary idea,” before asking, “What should justice look like?”²⁰ In posing the latter question, without answering it, Roy emphasizes that justice cannot be defined by a single person, even one who dedicates her life to an aspiration for it. For Roy, justice is a question of both imagination and practice, both of which remain

¹⁶ Derrida, *Aporias*, 12, 16, 32.

¹⁷ Derrida, *Cosmopolitanism and Forgiveness*, 45.

¹⁸ *Ibid.*, 32-33.

¹⁹ Roy, “I Don’t Believe There Are Only Two Genders.”

²⁰ *Ibid.*

unfinished and incalculable. The concept and operation of *aporia*, of radical openness, of incommensurability, of the ever-present otherwise and elsewhere are not new. What I propose is to apply these radically open concepts and practices to our relationship with law and with state violence.

They just swooped me up like a vacuum cleaner.²¹

On April 28th, 2015, Joseph Kent was abducted on live television. In under two minutes, an armored police vehicle simultaneously obstructed a news camera, created a wall against which Kent was physically trapped, and served as a holding facility into which he was thrown—all while the vehicle never stopped or changed its speed. Kent, a 21-year-old black man, and a Baltimore activist and organizer was, at the time of his arrest, a student at Morgan State University, working two jobs—one at a store in the mall and the other at a McDonald's—and living in Baltimore with his mother, stepfather and eight siblings.^{22 23} What does Kent's arrest—a recorded and publicly disseminated instance of explicit militarization of a civilian community in the name of preservation of law—reveal about the perpetual state of emergency in the U.S.? What is generated and what is withheld when the law is conflated with justice, safety and the state? What do publically declared states of emergency reveal about the ongoing implicit state of emergency in the U.S.?

²¹ Coleman, "EXCLUSIVE."

²² Farrell, "Joseph Kent: 5 Fast Facts You Need to Know."

²³ "Joseph Kent: 'Keep Protesting, but Positively'."

On the night of the incident, according to Kent, police requested he help clear fellow protesters in time for a 10 pm curfew. He chose to assist with the request. After helping clear one side of the street, when he appeared to be the only protester remaining, either a police officer or a National Guardsman (the militarization of the police makes it difficult to distinguish visually between the two in the video) hurled a tear gas canister near him. For protection, Kent put on a gas mask. Then, with impeccable military precision, he was captured by at least three officers, thrust into an armored vehicle, driven to another location, transferred to a police van, and taken to central booking. A few days after the arrest, in a CBS interview, Kent gave his own account:

I came through, put my hands up and walked slow—just in case, cause I know how police can get, from situations that’s been happening as far as police brutality. So, of course I went out, put my hands up, walked slow—so they can know that I’m not a threat. So I’m already thinking that they already know who I was, they already had let them know, cause the person I was talking to, he was one of the leaders for the police department, like a captain or a lieutenant or something like that—he wore a white shirt. And I thought he informed the other side, which he didn’t, and they just captured me, like—they used a tactic to trap me in, and I just disappeared. It happened so quick and so professionally, it wasn’t a mistake. They had to do that over radio. But it happened so quick and so professionally I didn’t even have no reaction at all. It was just like, woah, like, I was confused, then I was like, I had so many mixed emotions.²⁴

In the face of potential “police brutality,” Kent deliberately sought to convey, in the clearest possible terms, that he was not “a threat,” such that he could potentially minimize the chances of being subjected to legal violence. Kent, the black, unarmed, lone protester, recognizes that he is the potential threat to the many armed law-enforcers occupying his neighborhood. At the time of his abduction, Kent—by virtue of seemingly disregarding

²⁴ “Baltimore Protester Joseph Kent Speaks for First Time after Arrest.”

the force behind the law of the curfew—represented a threat to the legitimacy of the law of curfew; and in the context of a publicly declared state of emergency, he was subordinated to that law. He notes that he was publicly performing his mediatory role for the helmeted and shielded officers so they could view him as non-threatening—in other words, he was performing for the officers as an act of survival. When he proclaimed, “everybody has to disperse” and “everybody has to leave,” either the officers thought Kent was addressing his own community members, or they thought he was addressing the police and National Guard—telling officers that *they* need to disperse, *they* need to leave. If the officers held the latter perception, then Kent would be particularly threatening to those who were present to enforce the law, because not only would he have been deliberately disobeying the curfew-as-law, but also questioning the validity of the law itself, which would be a challenge to the validity of the enforcement of that law, and therefore to the authority behind the enforcement.

From where do the laws of a state of emergency derive their authority, and what is at stake when this authority is challenged? What means are employed by the state to validate its use of violence? A state of emergency requires the existence of a threat in order to present itself as a state of necessity. In the circumstances around Kent’s arrest—in the context of a publicly declared curfew—the declared threat was an absence of law and order: the menace of non-state violence. In order to continually generate and sustain the impression of a threat, the state rhetorically and legally criminalizes populations, characterizes those deemed criminals as violent, and thereby justifies its own militarization and use of violence. As Judith Butler observes, writing about the trial of

officers who beat Rodney King, the violence enacted by the state is always legitimized through an epistemology of whiteness that weaponizes the black body.²⁵ According to this “racist episteme,” which Butler presents as a “practice of reading,” the black body is viewed as inherently violent, and “by virtue of...blackness” is “always about to deliver” violence.²⁶ As Ta-Nehisi Coates writes, “in America, it is traditional to destroy the black body—it is heritage.”²⁷ In “No Bodies: Racality and Violence,” Denise Ferreira da Silva examines the presence of, and frequent occupation by, state police in Brazilian favelas while also confronting the history of Western epistemology, and specifically the formation of the Western subject. Much like Michelle Alexander and Coates, Silva asks how we can challenge raciality’s “production of the racial subaltern subject as the sole agent of violence.”²⁸ She notes that the use of state violence in certain communities is always-already justified; state violence achieves ethical authority through legitimacy (justified through the necessity for self-preservation).²⁹ Police, whether militarized or not, are authorized to kill, to use as much force as they deem necessary—what Silva calls “total violence”—in the name of the state.³⁰ When examining the deployment of and occupation by Brazilian troops in the favelas, Silva asks: “Under what authority could the self-preserving forces of the state ‘legitimately’ be deployed within national boundaries without an official suspension of the rule of law, a public declaration of the state of

²⁵ Butler, “Endangered/Endangering.”

²⁶ Ibid, 22.

²⁷ Coates, *Between the World and Me*, 103.

²⁸ Silva, “No Bodies,” 131.

²⁹ Ibid., 134, 154.

³⁰ Ibid., 119.

emergency?”³¹ Perhaps one reply to this question is that one need not declare a state of emergency if there is an always-already (a priori) state of emergency, such as in the U.S. and in post-Revolutionary Iran. According to Silva the destruction of black bodies “does not unleash an ethical crisis because these persons’ bodies and the territories they inhabit always-already signify violence.”³² This heritage of legitimizing particular state-condoned and deployed violences in the U.S. is embedded in epistemic whiteness as a “practice of reading,” and must be considered in its relation to both law-as-preservation and law-preservation.

In “Critique of Violence,” Walter Benjamin distinguishes between violence deemed legitimate and violence that is criminalized. He differentiates between lawmaking and law-preserving violence, noting that lawmaking violence is power-making violence. Therefore, when an individual seeks to enact lawmaking violence, the state can read it as a threat to the legal system. According to Benjamin, the state has a vested interest in “a monopoly of violence” to preserve the law. The state subordinates the individual to the law, which permits disproportionate state violence against non-state members. This monopoly of violence forms a stark distinction between violence deemed legitimate and necessary, and violence that is criminalized and penalized. Benjamin’s reading draws attention to the differing frameworks through which the state reads, justifies and criminalizes violence. These issues raise questions regarding to whom the law is accountable. Benjamin notes that the state’s law-preserving violence, as opposed to lawmaking violence, employs militarism and explicitly subordinates the individual to the

³¹ Ibid., 142.

³² Ibid., 121.

state; making it, I would argue, the violence most explicitly linked to the enforcement of law in a state of emergency.

In examining the enforcement of law, Benjamin writes that police have an “all pervasive, ghostly presence” and they possess both lawmaking and law-preserving power. Reflecting on his arrest, Kent states: “I suffered minor little scars from the shields, but other than that I’m alright.”³³ That he would describe his injuries as overlookable is due, in part, to the context of potential state violence that *could* have been, and perhaps will be in the future. Scars from the aggressively wielded shields of militarized police and the National Guard are deemed minor relative to the ghostly presence of the police’s more damaging violences—including the ever-present threat of death Kent had been protesting in the first place when he was arrested.³⁴ In his analysis, Benjamin does not directly address the conflation of the police and the military—such as the deployment of National Guard during recent protests, or the Pentagon-donated weapons and equipment used in police raids on residential neighborhoods while enforcing the War on Drugs. What possibilities are foreclosed by the militarization of police? Kent addresses the state’s militarization of his neighborhood, as well as the resulting (im)possibilities for communication:

How can you think we’re gonna be peaceful, but you got military people out here with machine guns, and you got people looking like robots, like *Area 51* or something? You think we’re gonna come off like “oh, look, can you hear me out?” No.³⁵

³³ “Baltimore Protester Joseph Kent Speaks for First Time after Arrest.”

³⁴ Joseph Kent was participating in protests that followed the murder of Freddie Gray.

³⁵ Coleman, “EXCLUSIVE.”

By what means can a protester address a militarized officer who communicates through the enforcement of law—through facemasks, shields, and ready-to-be used weapons? As Kent observes, the nuances of listening are already precluded when a state-deployed group of individuals have a single responsibility, which is in direct relation to the law itself, rather than to the people to whom the law relates. Tom LeGro and Thomas Gibbons-Neff of the Washington Post analyzed photographs of policemen deployed during the Ferguson, MO protests—protests that occurred after the fatal shooting of Michael Brown by police officer Darren Wilson, and which preceded the Baltimore protests and involved many parallel protest and policing strategies—and identified the following military-style equipment being used by police officers: acoustic riot control devices, armored tactical vehicles, helmets, goggles, flare launchers, smoke launchers, tear gas launchers, KA-Bar-Style fighting knives, night-vision goggles, 12-gauge shotguns, paintball guns, M4 carbines, marine pattern camouflage clothing and gear, long-range scopes mounted on tripods, mega AR-15 marksman rifles and specialized body armor.³⁶ While not all these weapons were physically used against protesters, they were deployed as tools for militarization of a civilian neighborhood; they were used as optics—as visually explicit displays of authority and the potential for violence, and thus as threats to law-breakers. And as Michelle Alexander notes, over the last few decades there has been an escalation of the militarization of local police, with the Pentagon providing police departments with military equipment.³⁷ Most recently, in August 2017, Attorney General Jeff Sessions lifted limits that had been placed by President Barack

³⁶ Chokshi, “Militarized Police in Ferguson Unsettles Some.”

³⁷ Alexander, *The New Jim Crow*, 74.

Obama on the 1033 program—a program Congress authorized in 1989 to militarily equip police for the War on Drugs. In 1996, President Bill Clinton signed into law H.R. 3230 (National Defense Authorization Act for Fiscal Year 1997), which expanded the scope of the program to include counter-terrorism. The bill contains section 1033, which “authorizes the Secretary to transfer to Federal and State agencies excess personal property of DOD which is suitable for use in law enforcement activities, including counter-drug and counter-terrorism activities.”³⁸ The distribution of this “surplus” military equipment through the 1033 program is coordinated by the Defense Logistics Agency, which does not have to publically disclose precisely what equipment is sent to what agencies.³⁹

In addition to a highly militarized police force, between 3,000 and 4,000 National Guardsmen, summoned by Maryland Governor Larry Hogan, occupied Baltimore from April 27th to May 4th, 2015.⁴⁰ How does the National Guard differ from contemporary police in riot gear? Today, as Emily Badger notes, “the distinctions are less apparent” than they used to be. In an article regarding the deployment of the National Guard in Ferguson, MO during protests in response to the murder of Michael Brown by a police officer, she states:

The domestic environment that the Guard enters in Ferguson...has changed. The local police now look an awful lot more like the military. And the situation on the ground already resembles a conflict in the late stages of law enforcement escalation. If the National Guard is supposed to

³⁸ “H.R. 3230 - National Defense Authorization Act for Fiscal Year 1997.”

³⁹ Lucas, “Trump Administration Lifts Limits On Military Hardware For Police.”

⁴⁰ Ellis, “Baltimore Curfew Lifted as National Guard Plans Exit.”

bring the power, equipment and gravity of the military, it looks as if it's already there.⁴¹

Thus the militarized police and the National Guard constitute a double army deployed by the state in civilian neighborhoods. When the National Guardsmen arrive, it means a crisis has *already* begun and is the *cause* of their deployment. Thus, their presence is its own justification. They are summoned in circumstances deemed to be emergencies (an assessment made by the police, the mayor, the governor, and/or the president, the latter two being the only parties who can choose to deploy them) including natural disasters such as tornadoes, floods and earthquakes, and specific circumstances of domestic unrest. What is the impact of associating a natural disaster with protestors? Is an occurrence of someone resisting curfew in her own neighborhood street, or breaking the window of a drugstore, analogous to the wilderness of a tornado blindly ripping through a child's bedroom? And what of the many National Guardsmen who have been deployed overseas as soldiers, most recently in the ongoing wars in Iraq and Afghanistan? Writing about the aftermath of Hurricane Katrina, Naomi Klein describes New Orleans' "sprawling convention center...now jammed with two thousand cots and a mess of angry, exhausted people being patrolled by edgy National Guard soldiers just back from Iraq."⁴² What are the potential dangers of employing officers—who are trained to perceive their environment as riddled with enemies in wartime—to control with state-sanctioned violence civilian communities? Jim Craig, a professor of Military and Veteran Studies at the University of Missouri-St. Louis states: "The National Guard by design is militarized,

⁴¹ Badger, "What Is the National Guard to Do When the Police Already Resemble Them?"

⁴² Klein, *The Shock Doctrine*, 4.

and so that doesn't theoretically de-escalate the situation."⁴³ The militarization of civilian neighborhoods communicates a subordination of citizen and community to law and to state.

**The very emergence of justice and law,
the founding and justifying moment that
institutes law implies a performative
force, which is always an interpretative
force...**⁴⁴

A critical tool for perpetuating systems of injustice is to feign that obeying laws will inevitably lead to justice. In "Force of Law," presented at a 1989 colloquium entitled "Deconstruction and the Possibility of Justice" at Cardozo Law School, Jacques Derrida argues that the law is performative and not *a priori* existing. He distinguishes law from justice, undermining an oversimplified narrative of cause and effect. Law justifies itself in applying itself, whether or not it is externally judged to be "unjust or unjustifiable"; its enforceability is implied in the very concept of justice as law.⁴⁵ So law is enforced not because it is right, not because it is the source of justice, but because enforceability is what makes law law. In other words, implied in law is that it can be applied by force. And this force can be "direct or indirect, physical or symbolic, exterior or interior, brutal or subtly discursive and hermeneutic, coercive or regulative, and so forth."⁴⁶ In this way, law is "performative"; it performs its authority, and its law-ness, through its

⁴³ Gambino, "What Is the US National Guard and When Is It Called Up?"

⁴⁴ Derrida, *Force of Law*, 13.

⁴⁵ Ibid., 5.

⁴⁶ Ibid., 6.

enforcement.⁴⁷

Importantly, and as I will examine later with regard to the role of “objectivity” in rhetorical and epistemic violence, law is a calculation that supposes the generality of a rule and applies that rule to a general public—a heterogeneous public comprised of individuals subjected for generations to various interrelated economic, epistemic, gender, racial, ethnic, religious, political, sexual and ableist institutionally-operating hierarchies. However, justice, Derrida argues, is incalculable and “must always concern singularity.”⁴⁸ If justice is incalculable, is it ever possible to know whether one is being just? Derrida proposes that justice addresses and operates in the singular, meaning justice can only operate through individual cases: through a single decision, a single act, a single address. It must be more than an idea to be justice; it must be put into practice. This point is important, because it binds the theoretical, conceptual, and ideological aspects of justice to justice-as-practice; in other words, it holds theories, concepts, and ideologies accountable to their corresponding outcomes when put into practice in the lives of individuals through law, for example. This point is also crucial to a close reading of justice because it conveys the complicated nature of justice: on one hand, justice cannot simply dwell in the terrain of the mind—it must be put into practice; on the other hand, justice, practiced through a decision, can never be measured—because the nature of justice is such that it is perpetually unfinished. Derrida calls for rigorous and intimate—though always inadequate—scrutiny, what he describes as “sensitivity to a sort of

⁴⁷ Ibid., 13.

⁴⁸ Ibid., 17.

essential disproportion” of the “normative apparatus surrounding justice.”⁴⁹ Un-assessed, static and universally applied laws should be closely scrutinized, as should the political, social and historical institutions through which laws are applied and enforced. In terms of considering the possible relation between law and justice, Derrida observes that each legal decision emerges within a distinct temporal, cultural, economic and political context, rather than from an objective and universal system of law or justice. This context encompasses social institutions that make up what Patricia Hill Collins calls the “structural domain of power,” which reproduces subordination over time, and which includes “the policies and procedures of the U.S. legal system, labor markets, schools, the housing industry, banking, insurance, the news media, and other social institutions.”⁵⁰ Thus, in any unfinished aspiration to justice, one must not blindly accept, and thus further normalize, inherited systems, theories, determinations and practices of justice; one must challenge the authority, and elucidate the violence, of law—not only theoretically, but also in every legal, judicial and penal decision.

Three years prior to Derrida’s presentation of “Force of Law,” Robert Cover published the essay “Violence and the Word.” According to Cover, law is “normative world-building” and an “attempt to build future worlds.”⁵¹ Legal interpretation, through which justice claims to be practiced in legal and juridical institutions, is not the same as law.⁵² Enacting the law always involves interpreting the law, which entails violence—whether this be future, consequential violence, or past violence that the interpretation is

⁴⁹ Ibid., 20.

⁵⁰ Collins, *Black Feminist Thought*, 277.

⁵¹ Cover, 1602, 1605.

⁵² Ibid., 1606-1607.

used to justify.⁵³ The connection between legal interpretation and violence is “inseverable” and legal interpretation is “incomplete” without violence.⁵⁴ Fifteen years after Cover’s publication, Austin Sarat and Thomas Kearns praised Cover’s attention to the violence of law, as well as his embrace of plurality and other normative worlds.⁵⁵ They credit Cover’s “Violence and the Word” with prompting reflections on the relationship between law and violence, such as Derrida’s “Force of Law.”⁵⁶ However, Sarat and Kearns also observe that Cover is both “a critic of and an apologist for law’s violence.”⁵⁷ While Cover investigates and critiques the violence of law, they write, he ultimately claims that it “can and should be tolerated.”⁵⁸ In “Situating Law Between the Realities of Violence and the Claims of Justice,” Sarat asserts that while Cover draws attention to the violence of legal interpretation, he writes that legal violence is “an indispensable presence in our lives” and “preferable” to the violence of lawlessness.⁵⁹ Privileging the violence of law in this way, Sarat proposes, is to assume that the force of law “serves common purposes and advances common aims.”⁶⁰ Sarat offers that Cover made “peace with law’s violence,” and later, that Cover “cannot imagine law without violence,” thus implying that such a relation is, in fact, possible.

An important rhetorical choice to which Sarat draws attention is the manner in which Cover emphasizes law’s “violence” rather than the more commonly used “force”

⁵³ Ibid., 1601.

⁵⁴ Ibid., 1610, 1613.

⁵⁵ Sarat and Kearns, “Making Peace with Violence.”

⁵⁶ Ibid., 50.

⁵⁷ Ibid.

⁵⁸ Ibid., 54

⁵⁹ Sarat, “Situating Law,” 4-5.

⁶⁰ Ibid., 6.

of law; Sarat proposes that using the former word is a linguistic selection that serves to counter the naturalization and legitimation of the violence of law—in relation to the violence of lawlessness. “To the contrary,” Sarat observes, “there are much stronger reasons to be ill at ease with law’s violence, to regard it as an inharmonious feature of law, one that unavoidably wars with law’s constructive purposes and its desperately needed contributions to social and cultural meanings.” (54) Sarat agrees with Cover that law is supposed to create normative futures and protect society from lawless violence; however, Sarat deviates from Cover’s reading in his assertion that the violence of law uses the same force and coercion as lawless violence. In this way, Sarat leads us to question how the violence of law is distinct from, and certainly by what means it is superior to, the violence it claims to regulate.

In *Political Theology*, Carl Schmitt reminds us of the subjectivity of law and legal institutions. Laws and “the legal order” are entirely subjective—more specifically, they are based on decisions. They are not self-evident, though they can be applied this way. All orders, all structures of thought, law, practice, etc., are decisions made subjectively:

After all, every legal order is based on a decision, and also the concept of the legal order, which is applied as something self-evident, contains within it the contrast of the two distinct elements of the juristic—norm and decision. Like every other order, the legal order rests on a decision and not on a norm.⁶¹

Imposing a narrative of objectivity to obscure the subjectivity of decision-making is a form of violence. By using the term “objectivity” I refer to the quality of being uninfluenced by the elements of human life, including culture, ideology, history, gender,

⁶¹ Schmitt, *Political Theology*, 10.

sexuality, race and class, and thus being unbiased. Additionally, when I use this term, I refer to the misconception that everyone has access to all ways of seeing; or put another way, I wish to draw attention to that which is present, but which is less visible given modes of sensing and reading that are privileged. What, for example, exists in the environment that makes certain connections more likely than others? In terms of the spectrum of violence to which I refer, Derrida illustrates examples, such as the violence enacted by translation, “an always possible but always imperfect compromise between two idioms,” and the violence of being subjected to binary questions, for which he uses the title of the talk—“Deconstruction and the Possibility of Justice”—as an example: “That is the choice, the ‘either/or,’ ‘yes or no’ that I detect in this title. To this extent, the title is rather violent, polemical inquisitorial.”⁶² In contrast to Derrida, Cover and Sarat both urge a distinct focus on violence against bodies. Cover asserts that the consequences of interpreting law are manifested in the flesh, and thus the interpretations of those who resist these laws are also manifested through the flesh.⁶³ Interestingly, Cover aligns himself with the humanities, in particular in his resistance to an essential “unity” in the meaning-making, interpretive activities of law; but he also goes out of his way to distinguish the violence he considers—that which makes its marks on the body—from the “interpretive violence done by poets, critics, and artists.”⁶⁴ He argues that the violence of legal interpretation, and thus of judges, doesn’t need a mediator or system of representation to convey it—it is direct and visible. What distinguishes interpretation of

⁶² Ibid., 4-5.

⁶³ Cover, 1605.

⁶⁴ Sarat and Kearns, 52.

the law from interpretation of other literature is that this interpretation must be enacted through institutional modes that use organized violence; for Cover, legal institutions “are designed to realize normative futures in part through the practice of collective violence.”⁶⁵ Building on Cover’s reading, Sarat proposes that while deconstruction and critical theory have broadened and diversified our consideration of what constitutes violence, we must resist getting lost in a multitude of violences and focus primarily on the “embodiment and effects” of violence on “embodied subjects.”⁶⁶ While I agree that deconstructively reading violence as plural, and inclusive of coercions that are not necessarily physical, can neglect, or devalue, the legal violence enacted on human bodies, it is, I believe, equally important to continue to scrutinize the violences that are economic, cultural, epistemological and linguistic in order to hold accountable the insidious trafficking of systemic state violence, as well as to discern less explicit institutional violences. Identifying nuanced and concealed operations of violence such as these is crucial to the possibility of holding state violence accountable. Reading violence in a plurality of registers allows for one to discern violence enacted through the rejection of possibilities.

Related to the *aporia* of justice, and its relationship to law and violence, Derrida notes that our responsibility temporally exceeds us: it is inherited from those who precede us, and the impact of our engagement with it—whether or not we choose to act on this responsibility, to recognize it, to claim it—may disclose itself after we are gone. As a result of this temporal excess, our responsibility—in its uncontainability—exceeds our

⁶⁵ Cover, 1606.

⁶⁶ Sarat, “Situating Law,” 8-9.

understanding of it. We all have a responsibility “without limits, and so necessarily excessive, incalculable, before memory.”⁶⁷ Audre Lorde notes the incalculability and interrelatedness of our responsibility toward one another when she writes that “[n]one of us escapes the brutalization of the other.”⁶⁸ We are, as Lorde observes, ethically, spiritually, and materially responsible for one another’s wellbeing—and we are embedded in networks of power from which we may be benefitting at the cost of others’ brutalization. This acknowledgment of a temporality exceeding responsibility discloses a complicated and implicit network of *interrelations* across geography and time. To try to understand and enact such a responsibility involves repeatedly calling into question the credibility of the law. Derrida argues that when an axiom’s credibility is suspended, in the absence of certainty, anxiety can ensue. And anxiety—resulting from non-resolution, from the open question, from the “always unsatisfied appeal”—is required for justice even to be possible.⁶⁹ The interval of discomfort and suspense is precisely where transformations take place. Such transformations are possible only when fictions of certainty and totalizing representability are repeatedly interrogated and undermined.

On April 28th, 2015 Mayor Stephanie Rawlings-Blake declared a weeklong 10 pm to 5 am curfew for the city of Baltimore. Violating the curfew would constitute a misdemeanor.⁷⁰ In a state of emergency, the laws—including curfew-as-law—and those who defy them, are made unambiguous, un-individualized, and calculable. Curfew, and its enforcement, harbors no indeterminacy. It is anti-aporia. It does not allow for

⁶⁷ Ibid., 19.

⁶⁸ Lorde, *I Am Your Sister*, 185.

⁶⁹ Ibid.

⁷⁰ Fenton, Wenger, and Campbell, “After Protests, Baltimore Curfew Meets Resistance.”

undecidables. It clearly delineates the boundaries of what is inside and outside of the law; and to determine that something is outside of, or against the law, is already an absolute acceptance of the law—rather than an engagement with the law as performance, as an ongoing possibility that can be destroyed and re-made. If the state-expressed justification for a curfew is a publicly declared state of emergency, then its continued enforcement relies on a continued state of emergency. In this way, violence from protesters is required as public proof of the necessity and legitimacy of the curfew and its enforcement. Thus curfew is entirely calculable as law, its violent enforcement is always legitimated through the existence of the curfew itself as a response to a need, it requires violence from the community to continue being enforceable, its enforcers enact violence on behalf of the state against those who the state claims pose the threat of non-state violence, and those who are tasked with enforcing curfew-as-law are tasked solely with preserving the law itself by making every non-police member obey it, without ever employing what Derrida calls a “fresh judgment” of that law.

The United States...shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic Violence.⁷¹

Some of the most effective forms of influence and regulation are those that are invisible—those that conceal their work as they do their work. The legal imposition of a curfew is an explicit manifestation of a state of emergency. However, what more

⁷¹ U.S. Constitution, Article IV, Section 4.

concealed embodiments of such a state are perpetually at play, though perhaps more implicitly or demographically concentrated?

In a state of emergency, certain rights of a population are suspended, and the state exercises violence in the name of preserving the citizens and/or the state against a state-declared threat. The implication is that a state of emergency, whether or not publicly declared, is an exception to the normal order; that the normal legal order cannot sustain or address such a crisis, and therefore cannot be wielded to protect the citizens or the state. In such narratives, “law and order” are rhetorically bound to the promise of safety; and yet the state of emergency presents itself as a zone in which conventional laws are suspended. I suggest, however, that there exist states of emergency embedded in conventional U.S. and post-Revolutionary Iranian law. These laws are often rhetorically dissimulating, but are not a suspension of the law. In *State of Exception*, Giorgio Agamben argues that a state of emergency is neither inside nor outside the law. It is not a special set of laws for an emergency; rather, it is a suspension of all laws:

The state of exception is not a special kind of law (like the law of war); rather, insofar as it is a suspension of the juridical order itself, it defines law’s threshold or limit concept.⁷²

He makes the crucial observation that a state of emergency is possible not only in the context of war, but also in times of social and economic crisis. The “modern state of exception,” as Agamben traces it, is a creation of the democratic-revolutionary tradition and not of the absolutist one.⁷³ This is an important development from Schmitt’s reading of the state of exception, which binds the state of exception to dictatorships. The

⁷² Agamben, *State of Exception*, 5.

⁷³ Ibid.

assumption underlying Schmitt's theory is that contemporary democracies such as the U.S. are free from state violence; or rather, that the very existence of branches of government somehow makes democracy immune from enacting state violence unless there is a disruption of the "fundamental hierarchy of law and regulation in democratic constitutions."⁷⁴ Agamben writes:

In fact, the gradual erosion of the legislative powers of parliament—which today is often limited to ratifying measures that the executive issues through decrees having the force of law—has since then become a common practice...One of the essential characteristics of the state of exception—the provisional abolition of the distinction among legislative, executive, and judicial powers—here shows its tendency to become a lasting practice of government.⁷⁵

In an explication of the various terms employed to describe the same state practice, Agamben writes that he deliberately chooses the term state of exception over other possible terms for this particular set of circumstances, in part, because "state of exception" is not rhetorically limited to, and therefore does not reinforce, the war-narrative often fictitiously perpetuated by the state:

The present study will use the syntagma state of exception as the technical term for the consistent set of legal phenomena that it seeks to define. This term, which is common in German theory (*Ausnahmezustand*, but also *Notstand*, "state of necessity"), is foreign to Italian and French theory, which prefer to speak of emergency decrees and state of siege (political or fictitious, *état de siège fictif*). In Anglo-Saxon theory, the terms martial law and emergency powers prevail. If, as has been suggested, terminology is the properly poetic moment of thought, then terminological choices can never be neutral. In this sense, the choice of the term state of exception implies a position taken on both the nature of the phenomenon that we seek to investigate and the logic most suitable for understanding it. Though the notions of state of siege and martial law express a connection with the state of war that has been historically decisive and is present to

⁷⁴ Ibid.

⁷⁵ Ibid., 7.

this day, they nevertheless prove to be inadequate to define the proper structure of the phenomenon, and they must therefore be qualified as political or fictitious, terms that are themselves misleading in some ways. The state of exception is not a special kind of law (like the law of war); rather, insofar as it is a suspension of the juridical order itself, it defines law's threshold or limit concept.⁷⁶

As Agamben observes, language, and how we choose to employ particular terms, is never neutral. I have elected to use the term *state of emergency* to emphasize the element of crisis presented in the U.S. and Iranian state-provided narratives. Agamben's acknowledgment that the state of exception is not merely provisional as it feigns to be, but rather can become a "lasting practice" is valuable to help discern more coded states of exception. However, one should not negate the possibility that the legislative and judicial branches can be complicit in enacting a state of exception and its corresponding violences. In other words, what Agamben calls the state of exception, and to which I refer as the state of emergency, is not solely an exception to the rule that becomes a lasting practice; it can also form the political and ideological foundations of a nation's institutions, and thus its modes of imparting state violence. Agamben asserts that in contemporary states of exception, the government "instead of declaring the state of exception prefers to have exceptional laws issued."⁷⁷ In this way, he identifies the possibility for a legally codified state of exception. He writes that "the sovereign power of the president is essentially grounded in the emergency linked to a state of war," so that "over the course of the twentieth century the metaphor of war becomes an integral part of the presidential political vocabulary whenever decisions considered to be of vital

⁷⁶ Ibid., 4.

⁷⁷ Ibid., 21

importance are being imposed.”⁷⁸ Agamben observes:

The subsequent history of the state of siege is the history of its gradual emancipation from the wartime situation to which it was originally bound in order to be used as an extraordinary police measure to cope with internal sedition and disorder, thus changing from a real, or military, state of siege to a fictitious, or political one.⁷⁹

Evidence of this “fictitious” rhetorical maneuvering can be seen most recently in both the War on Drugs and the War on Terror in the U.S. Emphasizing the exceptionality of the state of exception—in other words, characterizing a state of exception as a deviation from the order conceptualized and institutionalized at the nation’s founding—Agamben argues that it is a space devoid of law, which still carries the force of law. He demonstrates this visually by crossing out the “law” in “force of law”:

The state of exception is an anomic space in which what is at stake is a force of law without law (which should therefore be written: force-of-~~law~~).⁸⁰

He points out that the state of exception needs law, but can assert itself only when law is suspended. Today, with the War on Terror, the state of exception is at its “maximum deployment,” through permanent internal states of exception, all while still claiming to be “applying the law.”⁸¹ Agamben observes that a state of exception is “a suspension of the juridical order itself,” but at what point does it cease being a suspension of laws and in fact constitute its own rigorous legal and judicial system?⁸² Why does he read the circumstances of the state of emergency as an exception to the rule, rather than as the rule

⁷⁸ Ibid.

⁷⁹ Ibid., 5.

⁸⁰ Ibid., 39.

⁸¹ Ibid., 87.

⁸² Ibid., 5.

itself, as foundational to the creation of the society? Can the state of emergency be read as a state of hyperlegality, as Colin Dayan argues in *The Law is a White Dog*, rather than an exception to, or suspension of, law?⁸³ Agamben observes that emergency or exception can become the rule, but he identifies it only in a post 9/11 context for democracies, and in juxtaposition to a norm, rather than *as* the norm:

President Bush's decision to refer to himself constantly as the "Commander in Chief of the Army" after September 11, 2001, must be considered in the context of this presidential claim to sovereign powers in emergency situations. If, as we have seen, the assumption of this title entails a direct reference to the state of exception, then Bush is attempting to produce a situation in which the emergency becomes the rule, and the very distinction between peace and war (and between foreign and civil war) becomes impossible.⁸⁴

Again, later, he writes:

The normative aspect of law can thus be obliterated and contradicted with impunity by a governmental violence that—while ignoring international law externally and producing a permanent state of exception internally—nevertheless still claims to be applying the law.⁸⁵

There is an implication in Agamben's reading that the non state of exception laws are themselves a kind of norm, a non-abusive or non-violent system, and that in nations he identifies as democratic, it is in circumstances of crisis/exception that the law gets suspended and enforced violently. However, I propose that in the U.S. and in Iran the internal permanent state of exception is intrinsic to the "normative aspect of law." As Charles W. Mills writes regarding the United States:

U.S. political culture is conceptualized as *essentially* egalitarian and inclusive, with the long actual history of gender and racial subordination

⁸³ Dayan, *The Law Is a White Dog*, 72.

⁸⁴ Agamben, 22.

⁸⁵ *Ibid.*, 87.

being relegated to the status of a minor “deviation” from the norm...Obviously such a starting point crucially handicaps any realistic social epistemology, since in effect it turns things upside down. Sexism and racism, patriarchy and white supremacy, have not been the *exception* but the *norm*.⁸⁶

For example, in the case of mass incarceration in the War on Drugs (the manifestation of a more implicit state of emergency), the Supreme Court (the governmental body that interprets the constitution and sets national precedents for how all lower courts can interpret, apply and contest laws) has repeatedly legally codified rhetorical, economic, physical and institutional racism. As Alexander writes:

Yet when the time came for the Supreme Court to devise the legal rules that would govern the War on Drugs, the Court adopted rules that would *maximize*—not minimize—the amount of racial discrimination that would likely occur. It then closed the courthouse doors to claims of racial bias.⁸⁷

While he does note that there is such a thing as a “perpetual” state of exception, such as with the post-9/11 War on Terror, Agamben does not explore the notion of a state of emergency that is integral to the founding of a nation. He writes that the creation of a permanent state of exception (even when not officially declared) has become an essential policy of the modern state, including in states that consider themselves democracies—however, what he reads as permanence still marks its origin in a point after the initial establishment of the state. Agamben points out that the government tries to present the state of exception as a “state of necessity” in order to justify its force (and violent enforcement) of law. Importantly, he problematizes the notion of necessity as it is treated by the state, as well as by many scholars:

⁸⁶ Mills, “White Ignorance,” 17.

⁸⁷ Alexander, 108.

But the extreme *aporia* against which the entire theory of the state of necessity ultimately runs aground concerns the very nature of necessity, which writers continue more or less unconsciously to think of as an objective situation. This naive conception—which presupposes a pure factuality that the conception itself has called into question—is easily critiqued by those jurists who show that, far from occurring as an objective given, necessity clearly entails a subjective judgment, and that obviously the only circumstances that are necessary and objective are those that are declared to be so.⁸⁸

He reminds the reader that necessity is determined by the subjective interpretation of the one claiming the necessity—and thus that which is deemed to be necessary for one is not necessary for another. Just as Derrida points out that justice can be enacted only in a single decision—as opposed to the generality of a law—Agamben points out that “necessity ultimately comes down to a decision” and “that on which it decides is, in truth, something undecidable in fact and law.”⁸⁹ That is to say, there is no universally true necessity that is free from all historical conditions or personal benefits, and which can thus be contained in the codification and enforcement of law. The general determination by the state of a state of necessity, as justification for a state of emergency, is never objectively or universally true; it always serves the interests of one and at the expense of another. In *The Shock Doctrine: The Rise of Disaster Capitalism*, Naomi Klein points out how, in states of emergency, “leaders are liberated to do whatever is necessary (or said to be necessary) in the name of responding to a national emergency.”⁹⁰ A sense of urgency is bound to the notion of necessity, and, as Klein notes, such states “are, in a way, democracy-free zones—gaps in politics as usual when the need for consent and

⁸⁸ Agamben, 29-30.

⁸⁹ Ibid.

⁹⁰ Klein, 175.

consensus do not seem to apply.”⁹¹ In considering the exceptionality of a state of emergency, neither Klein nor Agamben note the perpetual state of emergency embedded in the American legal and juridical systems. However, in *Habeas Viscus*, Alexander Weheliye argues that a state of emergency is not necessary for those “already marked for violent exclusion.”⁹² Or, read another way, there has been a state of emergency built into the legal infrastructure of the U.S. from its founding, which is in fact operating all the time. One need not repeatedly publicly declare a state of emergency if there is an always-already state of emergency in which the administration of justice is enveloped in the violent enforcement of law, and civil, social and human rights are suspended.⁹³ Weheliye observes the perpetual state of emergency targeting distinct populations in American society:

As opposed to the temporally bound state of exception espoused by Agamben and Schmitt that revokes the legal entitlements of all citizens, here different populations—often racialized—are suspended in a perpetual state of emergency...⁹⁴

In the U.S., the state of exception is only an exception for some, and it is inscribed in the law, though sometimes obscurely. Presenting a complicated and nuanced assemblage of power, law and sovereignty, Weheliye draws from, criticizes, and is in conversation with the work of Agamben, Michel Foucault, Hortense Spillers and Sylvia Wynter to redefine and re-read notions of bare life and biopolitics, leading to his analysis of “racializing

⁹¹ Ibid.

⁹² Weheliye, *Habeas Viscus*, 86.

⁹³ Silva, “No Bodies: Law, Raciality and Violence,” 152.

⁹⁴ Weheliye, 88.

assemblages of subjection.”⁹⁵ Specifically, he places Wynter and Spillers’ work, which he describes as “alternate genealogies for theorizing,” against Agamben and Foucault’s.⁹⁶ Agamben, Weheliye writes, “discursively duplicates the very violence it describes without offering any compelling theoretical or political alternatives to our current order.”⁹⁷ In criticizing Agamben and Foucault’s theories, he notes that race, as a process of hierarchization, must be “placed front and center” in any analysis of political violence, rather than deemed to be too “primitive” by academic and cultural institutions for Western legal, sociological, philosophical and literary scholarship.⁹⁸ In other words, though race and racialization are foundational to the culture, institutions, and perpetual state of emergency in the U.S., in political and theoretical discourses colonized by the supremacy of so-called objectivity, the workings of whiteness dismiss race as overly subjective and personal, as intellectually inferior, and insufficiently civilized for serious consideration in academic and political discourse. As I will elaborate in the third chapter, this strategy of enacting political violence is reinforced by laws that make the consequences of hierarchization seem individualized rather than systemic.

Another of Weheliye’s critiques of Agamben is that his analysis is entirely based on a framework in which European Nazism is viewed as the apex of state violence and horror, thus ignoring “the historical relationality and conceptual contiguity between Nazi racism and the other forms of biopolitics...perfected in colonialism, indigenous genocide,

⁹⁵ Ibid., 2.

⁹⁶ Ibid., 29-30.

⁹⁷ Ibid., 82.

⁹⁸ Ibid., 5.

racialized indentured servitude, and racial slavery.”⁹⁹ In *Discourse on Colonialism*, Aimé Césaire points out this tendency in Western scholarship, describing how the barbarism of Hitler was a culmination of all the barbarism Europe had previously unleashed on the non-West.¹⁰⁰ He writes that “they tolerated that Nazism before it was inflicted on them...they absolved it, shut their eyes to it, legitimized it, because, until then, it had been applied only to non-European peoples.”¹⁰¹ Similarly, Roxanne Dunbar-Ortiz argues that the U.S. militarization, intervention, exploitation and conquest of the globe are a direct development and reflection of its militarization and colonization of Native Americans at the nation’s founding up through today.¹⁰² To reinforce such a hierarchical framework of registered violence is itself violent in its containment and its corresponding exclusions. In putting forward a contemporary reading of the state of emergency, one must ask: which modes of sensing and reading do Western pedagogy, epistemology, philosophy, society, etc., privilege? What exists in the environment that makes certain connections more likely than others? Given the intersectional hierarchies that are always operating, particular violences are rendered unregistrable and unmournable. As Teju Cole notes in “Unmournable Bodies,” the global outpouring of support and visible performances of solidarity against the 2015 Charlie Hebdo terror attacks in France drew attention to countless overlooked global populations that have endured terror attacks of equal or greater proportion. He writes:

⁹⁹ Ibid., 59.

¹⁰⁰ Césaire, *Discourse on Colonialism*, 36.

¹⁰¹ Ibid.

¹⁰² Dunbar-Ortiz, *Indigenous Peoples' History of the United States*.

We may not be able to attend to each outrage in every corner of the world, but we should at least pause to consider how it is that mainstream opinion so quickly decides that certain violent deaths are more meaningful, and more worthy of commemoration, than others.¹⁰³

Cole points out a marked distinction between violences read as worthy or unworthy of mourning, which “often keeps us from paying proper attention to other, ongoing, instances of horrific carnage around the world.”¹⁰⁴ Thus, privileging certain violences over others must be scrutinized to better discern that which is being overlooked, rejected and excluded in the formation and enforcement of laws.

...I am concerned with the savage encroachments of power that take place through notions of reform, consent, and protection.¹⁰⁵

To re-imagine one’s relation to law, and to allow for other potentialities, one must first discern the myriad interrelated dynamics of power through which law is justified and enforced. One must also recognize the explicit and implicit state of emergency embedded in American political, legal and cultural institutions. A publicly declared state of emergency presents itself as a state of exception—a necessary suspension of the legal norm—and thus can conceal the implicit state of emergency operating all the time. In presenting an explicit state of emergency as an exception, the state implies that in “normal” and non-emergency circumstances the state does not employ state violence. Instead, the explicit militarization of law enforcement—which through increased media

¹⁰³ Cole, “Unmournable Bodies.”

¹⁰⁴ Ibid.

¹⁰⁵ Hartman, *Scenes of Subjection*, 5.

coverage is viewed by a broader and more varied demographic—should elucidate more coded state violences that are always operating. State violence enacted in any state of emergency is rhetorically maintained through security imperatives, binding the notion of law and order not only to the security of the state, but also to the personal, economic, moral and social safety of its residents—often by equating the preservation of the state with the preservation of its non-state residents. Whether or not publicly proclaimed, every state of emergency is sustained through crisis-declaration, enemy-condemnation and a conflation of law with safety and justice. While rigorous censorship, publically performed punishments, curfews, and calls for the National Guard in residential communities are markers of explicit and publicly discernible states of emergency, my contention is that the daily—and often implicit—legal, judicial, economic and militaristic enforcement of laws, such as in the name of the ongoing War on Drugs and War on Terror, constitute an ongoing state-endorsed state of emergency, the roots of which lie in the very founding of the legal, juridical and political institutions of the U.S. Critically re-reading the notion of the state of emergency by examining it not as a state of exception but as a state of permanence allows one to discern various violences enacted by the state all the time.

CHAPTER 2

Enemy of the State

In this chapter, I examine the state of emergency in the Islamic Republic of Iran—implemented through rhetorical, physical and legal containments—to elucidate what I read as a parallel state of emergency in the U.S. After providing a brief history of the circumstances surrounding the Islamic Revolution, I offer a reading of Ruhollah Khomeini's *Velayat-e Faqih* as a founding national text that establishes strict moral and legal proclamations and asserts a perpetual state of emergency marked by crisis-declaration, enemy-condemnation, and a conflation of law with justice.¹⁰⁶ Regarding the latter point, I wish to draw attention to the tension between Khomeini's insistence on the objective application of divine law in an Islamic government and the impossible-to-avoid subjectivity and ambiguity involved in the act of reading any text. I address the impact of Khomeini identifying media as a site of corruption and a threat to Islam, as well as the corresponding state violences deployed to regulate it. An aspect of the *Velayat-e Faqih* that I wish to explore is Khomeini's assertion that a properly governed Islamic state relies completely on the laws conveyed in the Qur'an, which he identifies as divine, and which he asserts can and must be administered objectively. I then turn to post-Revolutionary Iranian cinema-as-discourse, focusing specifically on three films: Jafar Panahi's *This is Not a Film* (*In film nist*, 2011), Bahman Ghobadi's *Turtles Can Fly* (*Lakposhtâ ham parvaz mikonand*, 2004), and Asghar Farhadi's *A Separation* (*Jodâi-e Nadër az Simin*, 2011). I consider these films as a means of disclosing and subverting binaries such as

¹⁰⁶ I have chosen to cite Hamid Algar's English translation of the *Velayat-e Faqih*; however, in some instances I have provided my own translation, citing the original Farsi text.

good and evil through which censorship is structured, and which undergird the legal, judicial, penal and governmental systems in Iran.

The state's violence against its own people made the Islamic Republic's claim of being the ethical hub of Islam today null and void.¹⁰⁷

Following a British MI6 and American CIA-backed military coup in 1953 (operation TAPJAX), which overthrew democratically elected Prime Minister Mohammad Mosaddegh, Mohammad Reza Shah Pahlavi ruled as king of Iran until 1979, the year of the Islamic Revolution.¹⁰⁸ Leading up to and during the Revolution, various factions with divergent and often conflicting objectives and ideologies “united briefly to depose the Pahlavi monarchy”; these factions, which split after the Revolution, included Islamists who felt their country was being poisoned by secular Western influences and therefore needed to be supplanted by Islamic values, and Soviet-inspired Communists who felt the Shah was exploiting the people and relinquishing the nation's resources to Western imperialists.¹⁰⁹ What briefly unified these factions was a deep criticism of Western intervention—for the former, primarily religious, cultural and moral, and for the latter, primarily economic and political—into Iran's national affairs. Khomeini's criticism of imperialism, monarchies, foreign intervention, exploitation of resources and the neglect of the poor appealed to many in the country, thereby building a larger base of support for him in Iran while he was in exile. As Trita Parsi, president and founder of the

¹⁰⁷ Mottahedeh, *#iranelection*, 44.

¹⁰⁸ “Foreign Relations of the United States.”

¹⁰⁹ Saffari, “The Legitimation of the Clergy's Right to Rule in the Iranian Constitution of 1979,” 81.

National Iranian American Council, notes, “in the narrative propagated by the Islamic Republic’s leaders, the revolution saved the country from the shah’s policy of subjugating Iran to the West.”¹¹⁰ In January of 1979, two weeks after the Shah fled Iran, the Ayatollah Ruhollah Khomeini returned from exile—at the time in Paris, France—to establish the Islamic Republic of Iran (IRI), an objective toward which he had long been writing, speaking and organizing.¹¹¹ Shortly after the overthrow of the monarchy, the new government closed all universities for two years, declared the veil mandatory for all women, and imprisoned, tortured and executed countless people—including thousands who had risked their lives to bring about the Revolution. This initial purge corresponded to the government’s narrative of a perpetual threat against Islam and the new Islamic state; thus, the Islamic Republic, as Mohammad Khorrami notes, “defined a significant portion of its identity through the concept of ‘permanent revolution.’”¹¹² From its inception, Iran adopted a permanent state of emergency the declared purpose of which was to protect the ongoing Revolution from the threat of Western forces that sought to contaminate and undermine it. Azar Nafisi reflects that in this context, much like the rhetoric and surveillance deployed as part of the War on Terror in the U.S., people were surveilled through the binary of “for” and “against,” such that in Iran, “all gestures, even the most private, were interpreted in political terms.”¹¹³

The colors of my head scarf or my father’s tie were symbols of Western decadence and imperialist tendencies. Not wearing a beard, shaking hands with members of the opposite sex, clapping or whistling in public

¹¹⁰ Parsi, “Why Iran’s Supreme Leader Wants a Nuclear Deal.”

¹¹¹ “1979: Exiled Ayatollah Khomeini Returns to Iran.”

¹¹² Khorrami, *Literary Subterfuge and Contemporary Persian Fiction*, 2.

¹¹³ Nafisi, *Reading Lolita in Tehran*. 25.

meetings, were likewise considered Western and therefore decadent, part of the plot by imperialists to bring down our culture.¹¹⁴

Much as the War on Drugs in the U.S., first a political and rhetorical war, has, as Michelle Alexander notes, “become institutionalized” and militarized, the rhetoric, politics and mass-purging in Iran enacted directly after the Revolution have been legally, juridically and militaristically institutionalized.¹¹⁵ Punishments for those accused by the state of not complying with Islamic laws are daunting—accusations such as *waging war against God, spreading propaganda, undermining national security and corruption on earth* confer penalties that include confiscating passports, house arrest, solitary confinement, indefinite incarceration without charges or trial, torture and death. Through an exacting and generally applied rubric of morality and immorality constructed from a subjective interpretation of the Qur’an, the government monitors and censors the population in a publicly-proclaimed perpetual state of emergency. It systematically enacts violence, often by inflicting punishments that are grossly disproportionate to the alleged crimes and by frequently making part or all of the punishment public—such as hangings held in the middle of town squares and televised coerced confessions.¹¹⁶ As Khorrami writes, “in Iran, under the Islamic government, blatant torture and ritualized spectacles are part of the punitive-judiciary system.”¹¹⁷ This system, as I will elaborate later, wields the cultural and personal capital of public shame in its punitive administration. In addition to official government forces that judge and dole out punishment, there are

¹¹⁴ Ibid.

¹¹⁵ Alexander, 84.

¹¹⁶ Khorrami, 25.

¹¹⁷ Ibid., 24.

vigilante groups such as Basij and Ansar-e Hezbollah, gangs of individuals sanctioned by the state to surveil and enforce with public violence the Islamic morality of its citizens.

Again, Khorrami writes:

These groups can stop men and women who are walking together in the streets and ask them to provide proof that they are related to each other either by marriage or family ties. They can stop women and issue warnings to those whose hejab is not perfect (meaning, for example, that a few strands of hair are seen from underneath their headscarves), etc.¹¹⁸

As agents of surveillance and state violence, these divine law enforcers monitor even the most private and mundane elements of day-to-day life for signs of deviance, sin and corruption. To validate its use of censorship, surveillance, criminalization and physical violence, the post-Revolutionary government uses the rhetoric of an ongoing state of emergency—namely an unending assault on true Islam—and a corresponding binary of morality, drawn from the reflections and declarations of Khomeini's *Velayat-e Faqih*.

Law is actually the ruler; the security for all is guaranteed by the law, and law is their refuge.¹¹⁹

Khomeini's political-theological doctrine *Velayat-e Faqih*, a series of lectures given to his own students, was incorporated in both the 1979 and the 1989 Constitutions of post-Revolutionary Iran.¹²⁰ In 1970, the year *Velayat-e Faqih* was published, Khomeini was a Muslim cleric exiled by the Shah and living in Najaf, Iraq.¹²¹ When he

¹¹⁸ Khorrami, 32.

¹¹⁹ Khomeini, 46.

¹²⁰ Saffari, 65.

¹²¹ Dabashi, *Theology of Discontent*, 437.

assumed the role of Supreme Leader of the new Islamic state, aided by the failures of a poorly organized opposition front, which included “the secularists, the communists, the nationalists, the lay-religious, many of the ethnic groups” and “Islamic guerrilla groups” who had sought to focus almost exclusively on forming “a united front against the monarchy” rather than attending to the realities that awaited after the Revolution, those loyal to Khomeini’s ideologies institutionalized *Velayat-e Faqih*’s rule in Iran by incorporating it into the Iranian constitution, and making it the legal foundation of the Islamic Republic.¹²² In this way, *Velayat-e Faqih* is crucial to the founding of the post-Revolutionary nation’s legal, juridical, political and cultural institutions, and is central to what Negar Mottahedeh calls “the isolationist and purificatory discourse of the Islamic regime.”¹²³ Khomeini’s writings are key to the identity of the Islamic Revolution, to the founding of the Islamic Republic, and to the interpretation of how legal and juridical institutions should be formed and administered.¹²⁴ As Said Saffari observes, “the rejection of the concept of *Velayat-e Faqih* has come to symbolize the renunciation of everything the Islamic government of Iran epitomizes.”¹²⁵ Much like the conditions in Iran after the Revolution, during the Shah’s reign it was nearly impossible to criticize the state without severe punishment including censorship and other forms of violence. Dabashi observes that during the 1960s and 1970s, “the Shah’s ruthless police state, through a paralyzing mobilization of actual and intimidating terror, had increasingly

¹²² Saffari, 64, 66.

¹²³ Mottahedeh, *Displaced Allegories*, 42.

¹²⁴ Dabashi, *Theology of Discontent*, 415.

¹²⁵ Saffari, 82.

made any form of political expression highly hazardous.”¹²⁶ Thus, exiled voices like that of Khomeini who “wrote and spoke without any significant limitation” outside of Iran, were able “to say what others dared not utter” inside the country.¹²⁷ This allowed Khomeini to be one of the strongest and most vocal critics of a government that was growing increasingly unpopular among diverse factions that witnessed what they felt was the monarchy’s many injustices; thus, Khomeini became not only the authority of true Islam, but also an authority of justice, both attributes carrying into the texts he authored, and the legal and juridical systems of the nation he led.

In *Faqih*’s approximately 100 pages of text, translated by Hamid Algar, Khomeini depicts the plight of true Islam against “colonial” powers that discern its unifying potential, and which “seek to obliterate it to dominate the Muslims more effectively.”¹²⁸ He designates these powers as the common enemies of Islam, and offers the ideological instruments with which they can be confronted. In *Faqih*, he calls for Muslims to “bring into existence an Islamic government of justice that will be in the service of the people.”¹²⁹ The government’s role—through the preservation of what Khomeini deems to be true Islam—is to serve “the people”; and yet, he immediately compromises this assertion by conveying a perpetual state of emergency for Islam, and thus for the Islamic Republic of Iran in which the law is “the ruler,” when he writes:

¹²⁶ Ibid., 416.

¹²⁷ Ibid.

¹²⁸ Dabashi, *Theology of Discontent*, 438.

¹²⁹ Khomeini, 24.

به هر صورتی که مفیدتر تشخیص می‌دهید، کتباً، شفاهاً،
مردم را آگاه کنید که اسلام از ابتدای نهضت خود چه
گرفتاریهایی داشته، و هم اکنون چه دشمنان و مصایبی
دارد.

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By whatever means you consider most useful—textually, orally—make the people aware what hardships Islam has endured since the beginning of its movement/crusade, and what enemies and disadvantages it faces even now.¹³¹

According to *Velayat-e Faqih*, Islam is under constant threat by persistent enemies; thus, when an Islamic state is established in Iran, the state must protect itself militarily and through the objective institution and enforcement of divine law.¹³² The law, by virtue of its divinity, becomes the ruler. Khomeini conveys that the existing threat of enemies of Islam justifies subordinating individual rights to the preservation of the Islamic state, and thus the laws that facilitate and enforce this. On one hand, true *sharia* law is the unequivocal “ruler” of the people; on the other hand, the law is their “refuge.” As I will elaborate in the third chapter, this dual nature of Islamic law—as both control and benevolence; punishment and protection—is key to the government’s narrative of itself, and to the rhetoric it uses to validate its own violence.

¹³⁰ *Velayat-e Faqih in Farsi*.

¹³¹ Khomeini. My translation. The word نهضت can be translated to “movement” and “crusade”; I have chosen to include both options here.

¹³² Here I use the term “objective” to denote the objectively divine reading to which Khomeini refers—one that is objectively true and severed from corrupting factors.

Khomeini posits that the divine laws of the Qur'an, as administered by an Islamic jurist (*faqih*), are fixed, immutable and "universally and atemporally valid."¹³³ Through readings of particular passages in the Qur'an, Khomeini seeks to show why an Islamic government and a designated Islamic ruler are not only beneficial, but also necessary. Once an Islamic government has been established, there is no need to found new laws, nor to "borrow" the laws of the West since the Qur'an already has all the laws written out and explained.¹³⁴ Khomeini proposes that the successors of the prophet do not need to explicate these laws because the Prophet Mohammad already did this; rather, an "executive power," in the form of the jurist, is necessary to exercise government and to execute the already-determined Islamic laws.¹³⁵ By distinguishing divine laws as unchanging and eternal, he rejects the inevitability of subjective interpretation, and thus plurality, involved in reading the Qur'an. As Dabashi notes, Khomeini's voice "became the voice of authority through which 'Islam' spoke," and thus his text embodied that same Islamic, and legal and political, authority.¹³⁶ The assertion that the laws administered and enforced by the Islamic state are objectively divine and just and can be equally applied in all circumstances without individual translation—from text to understanding, author intention to reader interpretation, understanding to articulation, reading to writing, self to audience, etc.—conceals the culpability and accountability of the individuals who subjectively interpret on behalf of the state the Muslim holy text and

¹³³ Dabashi, *Theology of Discontent*, 445-446.

¹³⁴ Khomeini., 86.

¹³⁵ Ibid., 15-16.

¹³⁶ Ibid., 416.

its teachings. Interpretation involves choosing one thing over another. As Michel Foucault points out in *The Order of Things*:

...at any given instant, the structure proper to individual experience finds a certain number of possible choices (and of excluded possibilities) in the systems of the society; inversely, at each of their points of choice the social structures encounter a certain number of possible individuals (and others who are not)—just as the linear structure of language always produces a possible choice between several words or several phonemes at any given moment (but excludes all others).¹³⁷

According to Foucault, recognizing the present system as a choice among other possibilities (many of which have been excluded, concealed or criminalized) unsettles the myth of inherency in the workings of the system in which one is embedded. The systems of the society frame our interpretations, as Judith Butler proposes, and as such, the interpretations are never fully “ours.” Considering the wars in Iraq and Afghanistan from the last few decades, including U.S. operations in Abu Ghraib and Guantànamo Bay, in *Frames of War* Butler discusses what determines a life to be grievable and recognizable, emphasizing that frames determine how we perceive, give value to, and recognize everything, including even life and death. Butler emphasizes social, political, economic, etc. context over an individualized/interpersonal framework, when she writes that the question is “whether the social conditions of persistence and flourishing are or are not possible.”¹³⁸ Interpretation is not entirely subjective on the part of the interpreter, and it is not entirely unique to each individual, as it is mediated by frames that are impacted by “the impinging world” and the “field of intelligibility” the world assembles.¹³⁹ And the

¹³⁷ Foucault, *The Order of Things*, 380.

¹³⁸ Butler, *Frames of War*, 20.

¹³⁹ *Ibid.*, 34, 67.

fields of intelligibility may include possible choices at any given moment by rendering them unintelligible.

Khomeini's assertion of a universally true application of law by a designated jurist disregards the epistemological and ontological frames that, as operations of power, determine how and whether we apprehend the lives of others, and our own. Butler locates her analysis of the apprehension of life in the consideration of life being "produced" through norms. By employing the term "produce," Butler considers the apprehension of life—of life value, and loss-of-life value—to be externally determined (external to or apart from some intrinsic value of life as life). While our apprehension of life is not "utterly limited" by these norms, the normative orchestration of state power asserts cultural homogeneity. Butler uses the term "apprehend" to allow for a less totalizing and more opaque notion than understanding or recognition; in considering the totalizing nature of the word "recognition," Butler questions how it "becomes part of the very practice of ordering and regulating subjects according to pre-established norms," thus proposing that recognition may "rely on a failure of recognition."¹⁴⁰ In this way, recognition operates through exclusion. Butler considers instead the role of what she calls "recognizability" and "grievability" in how and whether we apprehend a life. That which makes possible the apprehension of life in a thing or person is the apprehension of the thing or person's grievability; given the political and "cultural modes of regulating affective and ethical dispositions," a life may be considered ungrievable.¹⁴¹ Who does Khomeini's ideological, political and legal framework fail to apprehend? Who is marked

¹⁴⁰ Ibid., 141.

¹⁴¹ Ibid., 15.

as grievable and who is excluded from the possibility of this quality? And how is violence against those considered ungrievable not only validated, but also deemed necessary for the preservation of true Islam and the Islamic state? For example, as I will elaborate later, in *Velayat-e Faqih* Khomeini explicitly lists enemies of Islam that include non Shia Muslims; by regarding these individuals as enemies, he employs a frame that marks them as ungrievable. Thus, when the Islamic state implements laws that persecute and condemn Jews, Christians, Zoroastrians, and Baha'is through imprisonment, torture and death, it does so with the assumption that “these lives are never lived nor lost in the full sense.”¹⁴²¹⁴³

The founding members of the post-Revolutionary Iranian government designed a political, legal, juridical and social system from a text (*Faqih*) that interprets another text (Qur'an), eradicating its ambiguity and complexity, while concealing the translation and framing always involved in reading. The Islamic government does not say to the people, *Here is the Qur'an, use it as a guide to find your own path of spiritual and personal growth*. They say, *This is the single, unified meaning the Qur'an conveys, and the laws—and our enforcement of them—are universally true and just*. As Trinh T. Minh-ha notes, “translation, which is interpellated by ideology and can never be objective or neutral, should here be understood in the wider sense of the term—as a politics of constructing meaning.”¹⁴⁴ Reading someone else's text, constructing meaning from it and conveying that meaning to a general population—as law—are all subject to the inevitable plurality

¹⁴² Ibid., 1.

¹⁴³ “Iran Report: The Legal Framework.”

¹⁴⁴ Trinh, *Framer Framed*, 127-128.

of meaning-constructions inherent to reading. Every encounter with writing is subject to shifting interpretations, contexts and pluralities. Put simply, as Jacques Derrida notes in “Signature, Event, Context”: “Writing...is not the site...of a hermeneutic deciphering, the decoding of a meaning or truth.”¹⁴⁵ Reading any writing is a rhizomatic process; however, the Islamic state imposes reading as a root system. As Édouard Glissant observes in *Poetics of Relation*:

The root is unique, a stock taking all upon itself and killing all around it. In opposition to this...[is] the rhizome, an enmeshed root system, a network spreading either in the ground or in the air, with no predatory rootstock taking over permanently.¹⁴⁶

In this way, the Islamic government’s interpretations of the Qur’an constitute a predatory and permanent narrative that represses the plurality of possible, rhizomatic, interpretations.

As Derrida points out, context is imperative to deriving meaning; and context itself does not have a single unified meaning or experience, nor does it have a center or anchor.¹⁴⁷ Charles W. Mills addresses the context of the reader in meaning-making, calling the latter “an interaction of great complexity” and a product of socialization, conceptual frameworks, and excluded testimonies, thus rendering it decidedly subjective:

As examples, I will look at perception, conception, memory, testimony, and motivational group interest...Separating these various components is difficult because they are all constantly in interaction with one another. For example, when the individual cognizing agent is perceiving, he is doing so with eyes and ears that have been socialized. Perception is also in part conception, the viewing of the world through a particular conceptual grid. Inference from perception involves the overt or tacit appeal to

¹⁴⁵ Derrida, “Signature, Event, Context,” 21.

¹⁴⁶ Glissant, *Poetics of Relation*, 11.

¹⁴⁷ *Ibid.*, 12.

memory, which will be not merely individual but social. As such, it will be founded on testimony and ultimately on the perceptions and conceptions of others. The background knowledge that will guide inference and judgment, eliminating (putatively) absurd alternatives and narrowing down a set of plausible contenders, will also be shaped by testimony, or the lack thereof, and will itself be embedded in various conceptual frameworks and require perception and memory to access. Testimony will have been recorded, requiring again perception, conception, and memory; it will have been integrated into a framework and narrative and from the start will have involved the selection of certain voices as against others, selection in and selection out (if these others have been allowed to speak in the first place). At all levels, interests may shape cognition, influencing what and how we see, what we and society choose to remember, whose testimony is solicited and whose is not, and which facts and frameworks are sought out and accepted.¹⁴⁸

Mills lists “perception, conception, memory, testimony, and motivational group interest” as factors that influence one’s interpretation. Perception, which is socialized, impacts how and what one discerns, and thus what one registers as existing. Factors such as “eliminating alternatives” and selecting “certain voices as against others, selection in and selection out,” result from the stratifications and isolations determined by social, epistemic and institutional hierarchies which privilege certain modes of communication and interpretation over others. Khomeini’s reading and legal application of the Qur’an are shaped by his interests, his privilege (including gender, for example) and the testimonies he rejects in the formation of his conceptual worldview. And it is not only his own personal context that impacts his perception of the text; there is also the context surrounding the text itself. While context gives a text variability, it does not completely contain or unify its meaning. Removing/displacing/replacing contexts—such as through citation—can generate another plurality of meaning-making:

¹⁴⁸ Mills, 23-24.

Every sign, linguistic or nonlinguistic, spoken or written (in the current sense of this opposition), in a small or large unit, can be *cited*, put between quotation marks; in so doing it can break with every given context, engendering an infinity of new contexts in a manner which is absolutely illimitable.¹⁴⁹

When Khomeini cites and isolates fragments of the Qur'an in *Velayat-e Faqih*, he removes the quoted text from its surrounding textual context. Placing those excerpts in the context of his narrative of universally accepted divine law and a call for mobilization against enemies of Islam produces new contexts that can lead to possibly different meanings. However, according to Khomeini, a ruler's interpretation and administration of Islamic law is universally just, because God has assigned him the power to administer the affairs of the people.¹⁵⁰ Thus, an Islamic government can never be despotic or unjust:

حکومت اسلامی نه استبدادی است و نه مطلقه؛ بلکه مشروطه است. البته نه مشروطه به معنای متعارف فعلی آن که تصویب قوانین تابع آرای اشخاص و اکثریت باشد. مشروطه از این جهت که حکومت کنندگان در اجرا و اداره مقید به يك مجموعه شرط هستند که در قرآن کریم و سنت رسول اکرم معین گشته است. مجموعه شرط همان احکام و قوانین اسلام است که باید رعایت و اجرا شود. از این جهت حکومت اسلامی حکومت قانون الهی بر مردم است |

Islamic government is neither tyrannical nor absolute, but constitutional. Of course, it is not constitutional in the current sense that the adoption of laws should be subject to the votes of individuals and the majority. It is constitutional in the sense that rulers are bound to a set of conditions in the implementation and administration that are set forth in the Noble Qur'an and the Sunnah of the Prophet Akram. The set of conditions is the same Islamic rules and laws that must be observed and enforced. In this way, the Islamic government is the rule of divine law over men.¹⁵¹

¹⁴⁹ Derrida, "Signature, Event, Context," 12.

¹⁵⁰ Khomeini, 32-33.

¹⁵¹ Khomeini. My translation.

Is constitutionality necessarily antithetical to tyranny, as Khomeini proposes? What about when the constitution, such as the Islamic Republic's 1979 constitution, is based on the language and ideology of a text (*Velayat-e Faqih*) that emphasizes the supremacy and mastery of divine law? According to Khomeini, "the rule of divine law over men" is what constitutes this constitutionality; he is rather explicit about rejecting constitutional practices—such as majority rule—that are celebrated in Western societies. When the state presents itself as doing God's work, and presents its laws as divine, immutable and inherently just, it negates the subjectivity, political and ideological saturation, framing and plurality involved in reading. Khomeini declares it not only possible but also necessary—just as it was for the Prophet Mohammad—to objectively understand and enact divine law, and to apply this law to the general population, rendering the implementation, and by extension the enforcement, of laws in the Islamic state beyond reproach. Khomeini argues that the governmental implementation and enforcement of divine law can, and must, be objective and general. His claim is a strange one: on one hand, he states that the laws are clear and have already been explained in the Qur'an, such that they don't need to be interpreted, reimagined or rewritten; and yet, he claims that the Islamic Republic cannot be ruled by just anyone, it takes a particular figure to be the political and moral guardian of the Islamic nation. The possibility of an objective supremacy of divine laws and their corresponding just and un-tyrannical applications are complicated by post-Revolutionary Iranian cinema-as-discourse, as I will consider later. For example, films like Farhadi's *A Separation* disclose the subjective and human qualities of the administration of a theocracy in the day-to-day lives of Iranians, thus

revealing the moral ambiguity and myriad human interpretations at play. Essential to Khomeini's argument is that the divine laws have a single true meaning that only distinct spiritual scholars can identify and implement, and they are immutable and "universally and atemporally valid."¹⁵² This atemporal validity "makes it necessary for contemporary religious authorities, such as Khomeini, to assume political power and seek to implement them on a permanent basis"¹⁵³ Despite the changing rhetoric in American laws and culture, both states share a legally codified call for perpetual preservation against a perpetual threat: in the U.S. for the preservation of the state and safety and security of (certain) residents; in Iran the preservation of true Islam and its manifestation in the Islamic state. Both these states of emergency are advanced as states of necessity, and both governments subsequently condone state violence to enact this perpetual and necessary preservation.

The trouble is that once America goes off to war, it can't very well return without having fought one. If it doesn't find its enemy, for the sake of the enraged folks back home, it will have to manufacture one.¹⁵⁴

Essential to the legitimation of any state of emergency is the enunciation of an enemy. In the third chapter, I will further explore the interrelationships of condemnation and enemy-production. However, in this section, I wish to examine what is generated by framing an opposition between enemy and state, or enemy and citizens, as one of many

¹⁵² Dabashi, *Theology of Discontent*, 446.

¹⁵³ Dabashi, *Theology of Discontent*, 441.

¹⁵⁴ Roy, "The Algebra of Infinite Justice."

binaries that constitute the ideology upholding a state of emergency. In *Velayat-e Faqih*, Khomeini repeatedly draws attention to permanent internal and external enemies to Islam and the Islamic state. He names Jews and Christians as historic and contemporary enemies of Islam and describes them as “satanic” and “wretched.”¹⁵⁵ He also identifies “servants of imperialism,” “agents of imperialism,” “imperialists,” “oppressive and treacherous rulers,” “materialists” and “foreigners” as enemies of Islam.¹⁵⁶ One these enemies, and thus an enemy to the Islamic Republic, is the rampant misunderstanding of Islam’s true nature—a misunderstanding perpetuated by agents of imperialism and “foreign agents.”¹⁵⁷ The peril these perpetual enemies pose necessitates a perpetual preservation of the Islamic state. The U.S.—the “Great Satan”—is labeled an enemy and thus an ongoing threat to the Revolution.¹⁵⁸ In a perpetual state of emergency, the enemy—the cause and justification for state violence in the name of state-preservation—must perpetually exist. In more recent years, this has created challenges for the Islamic Republic’s publicly-disseminated narrative: decades since the Revolution and the Iran-Iraq war, and given the U.S. and Iran’s increasingly public diplomatic relations, declarations of a perpetual American threat have lost much of their urgency and validity, thus compromising the narrative infrastructure of the state of emergency outlined in *Velayet-e Faqih*.¹⁵⁹ Since the country established its moral, political and legal identity in direct relation to the villainization of the West and the threat it poses to Iran, positive or

¹⁵⁵ Khomeini, 8, 22.

¹⁵⁶ Ibid., 8-9, 78.

¹⁵⁷ Ibid., 9.

¹⁵⁸ Fassihi, “The U.S. Is Still Iran's Great Satan.”

¹⁵⁹ Parsi, “The Iran Deal Worked.”

diplomatic political and economic relations with the U.S. threaten the sovereignty of the state by possibly removing this foundational source of crisis. Thus, maintaining no, or at least a concealed, relation between Iran and the U.S. is imperative for Iran to preserve the image of the West as an enemy and thus as a reason to sustain the state of emergency that is bound up with the Islamic Revolution.

The existence of Islam's many enemies justifies, for Khomeini, state violence. In *Faqih*, he calls for violence for two purposes: first, in order to establish the true Islamic state, and second, in order to preserve it. As Dabashi writes:

Under these circumstances there is no way to remain a believing Muslim without revolting against the status quo. Except for the reign of Ali, Khomeini considers all postprophetic governments as un-Islamic, from the reign of the Umayyads to the present. To restore the true Islamic rule, as modeled on those of Muhammad and Ali, to oppose the Satanic reign of nonbelieving rulers, and to prepare a social condition congenial to the ethical virtuosity of Muslims, there is no way but to revolt...¹⁶⁰

As proposed by Dabashi, Khomeini's call for the preservation of true Islam was a call for Muslim-ness itself; this meant that to maintain the identity of an ethically virtuous Muslim, and in particular one who could wield the authority and judgment to participate in the government, one had to join Khomeini's revolt by situating oneself in the *Faqih*-supporting faction of Islamists. While Khomeini criticizes violence enacted by Western nations, he defends violence enacted in the name of true Islam. He points to the "slaughters" of the Vietnam War as an example of the West's global violence and to make the case that Islam's laws, such as if Muslims "kill a few corrupt people or

¹⁶⁰ Dabashi, *Theology of Discontent*, 441.

instigators of corruption,” are, in relation, unfairly judged to be too violent.¹⁶¹ He calls for the militancy of Muslims, insisting on their right to have an army and to be ready for war, even in times of peace. Militarization is not only necessary for preservation against Islam’s ever-present enemies, but also, according to Khomeini, militaristic state-preservation is integral to the identity of Islam:

The verse: ‘Prepare against them whatever force you can muster’ commands you to be as strong and well-prepared as possible, so that your enemies will be unable to oppress you and transgress against you. It is because we have been lacking in unity, strength, and preparedness that we suffer oppression and are at the mercy of foreign aggressors.¹⁶²

His call for an Iranian, and global, Islamic revolution is ongoing in that the duty of Muslims has not been fulfilled until the revolution takes place in all Muslim countries. Khomeini declares that this “is a duty that all Muslims must fulfill, in every one of the Muslim countries, in order to achieve the triumphant political revolution of Islam.”¹⁶³ He declares that “the frontiers of Islam and the territorial integrity of the Islamic homeland” must be guarded; thus, the Islamic state is subsumed under this logic. The Islamic state must, by divine order, protect itself at all costs against external and internal enemies of Islam—summoning the constant vigilance of a perpetual state of emergency.¹⁶⁴ Khomeini’s writings and speeches about preserving Islam, through bloodshed and through governance, inspired many young Iranians to enact the revolution and continues to be used to convey an ever-present need to protect the state through whatever means

¹⁶¹ Khomeini, 13.

¹⁶² Ibid., 23.

¹⁶³ Ibid., 24.

¹⁶⁴ Ibid., 42-43.

necessary—censorship, torture, imprisonment, economic and political isolation, etc.¹⁶⁵ He states that the preservation of Islam is a “duty,” and “one of the most important obligations incumbent upon us; it is more necessary even than prayer and fasting. It is for the sake of fulfilling this duty that blood must sometimes be shed.”¹⁶⁶ For the preservation of the state, Khomeini writes that Islam may subordinate the individual to the law and what he identifies to be the “collective interest of society.”¹⁶⁷ Thus, state violence in the name of a perpetual state of emergency is built into the very foundation of the Islamic Republic of Iran.

In the same manner that Khomeini touted militarization as an Islamic duty for the preservation of Islam, he implemented rigorous censorship as a publicly justified form of state violence and state preservation. Much like the binary identification of enemies versus non-enemies, and true Muslims versus false Muslims, the Islamic Republic perpetuates the unambiguous and rhetorically-contained distinction between *haram* and *halal*—that which is deemed to be Islamically forbidden versus that which is deemed permissible. Reinforcing binaries of good and evil, Khomeini points out the importance of “enjoining the good and forbidding the evil.”¹⁶⁸ However, in translating the Qur’an into administrative, legal and judicial actuality, individual subjectivity can lead to varying accusations of evil-ness and corruption, and thus to a corresponding subjective censorship. In *Surviving Images*, Kamran Rastegar reads Derrida’s concept of *aporia* as

¹⁶⁵ Khomeini, 44.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid., 53.

¹⁶⁸ Khomeini, 72.

“unanswerable questions.”¹⁶⁹ Utilizing Rastegar’s reading of this term, the moral rubric employed by the post-Revolutionary Iranian government is entirely anti-aporia: it provides clearly defined “answers”—the values of which are entirely measurable—to questions of morality. Against such totalizing condemnations as “undermining the Revolution,” any articulation of moral ambiguity can stage a critical intervention in the rhetorical and material violence of the state.

**A passion of which the outlets are sealed,
begets a tension of nerve, in which the
sensible world comes to one with a
reinforced brilliancy and relief—all
redness is turned into blood, all water
into tears.**¹⁷⁰

Shortly after the Revolution, when Khomeini returned to Iran from exile, he focused on media—specifically cinema—as part of an Islamic nation-building project. As noted by Negar Mottahedeh in *#iranelection* and Dabashi in *Close Up*, Khomeini did not try to eradicate cinema altogether, but rather to “cleanse” it of its Western influences in order to employ it toward the cultivation of a new national identity—one free from the influences of Western moral, economic and cultural corruption that, according to Khomeini, the Shah had allowed to spread throughout the country.¹⁷¹ Importantly, this “cleansing period...was supposed to be temporary but never came to an end.”¹⁷² The state’s “effort to sanctify technology” led to rigorous laws and systems of regulation and

¹⁶⁹ Rastegar, *Surviving Images*, 7.

¹⁷⁰ Pater, “Aesthetic Poetry.”

¹⁷¹ Mottahedeh, *#iranelection*, 62-63.

¹⁷² Khorrami, 63.

punishment for film, radio and television production.¹⁷³ In Iran, Khomeini explicitly located the primary site of moral corruption in women's bodies, and implemented a rigorous set of mandates, "based on principles of subservience, segregation, and veiling," that determined what is permitted and prohibited regarding women's bodies through a subjective interpretation of the Qur'an.¹⁷⁴ One of the most visible regulations was the nationwide mandatory implementation of Islamic hijab, or the veil, for all women in Iran. This includes covering the hair, as well as the arms, legs and feet in public spaces, or around any nonfamilial men, whose presence renders a private space public. The mandatory use of the veil was not the only aspect of censorship that was implemented in cinema after the Revolution; other changes included that all filmmakers had to obtain governmental permits to produce and screen films, no pre-Revolutionary actors or entertainers were allowed to appear in films, there could be no singing or dancing onscreen or onstage, men could not wear neckties or bowties (as this was read by the government as a sign of Western decadence), and there could be no touching between men and women. The latter point produced gratingly unnatural scenes, such that, for example, in a film where a son returns home from war, his mother cannot embrace, or even touch, him during their reunion.

Repeatedly, however, the outcome of censoring is in direct opposition to its stated intent. Censorship magnifies the viewer's sensitivity to that which is forbidden; it breaks up and partitions the thing being censored and thereby changes its meaning, hyperbolically heightening its magnitude and isolating it from its integral places in life; it

¹⁷³ Ibid.

¹⁷⁴ Naficy, *A Social History of Iranian Cinema*, 101.

enacts a containment and compartmentalization that severs and disfigures. The incommensurability of life in the face of censorship can lead to a heightened effort at its containment, as noted in the example below:

When Mohammad Massoud, a Tehran-based advertising filmmaker, agreed to produce an ad for a tomato paste company, he didn't expect to face any particular problems. Unlike his last project, which had faced a lot of scrutiny by the authorities at the state-run television, marketing the new product of a tomato paste company seemed straightforward enough. All he envisioned would be needed would be to throw a whole chicken into a pot, add some vegetables and remind the viewer of the missing ingredient. But Massoud was wrong.

"We showed a whole chicken inside the pot that we were going to cook and to which we were going to add tomato paste. There was a close-up that moved over the whole chicken. They found fault with this, saying that it was 'provocative.' ... We wanted to show that this chicken will find a whole new presentation with this tomato paste, but the gentlemen were distracted by something else."¹⁷⁵

Censorship focuses attention on the very thing the government demands you turn away from, and its absence creates a need to seek it out everywhere. The censored thing has nowhere else to adhere to, so viewers adhere it everywhere. Because censorship doesn't only operate around the explicit; it targets the implicit as well. It targets the thought process, the tacit relationships between ideas, the inner workings of the mind—and by doing so, it widens not only the net of what is to be prohibited and banned, but also what is profane and worthy of desire. This process is precisely what leads to the image of a plucked chicken in a tomato sauce commercial feeling like pornography. If you want to constrain and conceal all that is suggestive, suddenly everything becomes suggestive. A cartoon from Buna Alkhas' book *Bunanameh* sums up this point well:¹⁷⁶

¹⁷⁵ Dehghan, "The Provocative Chicken: Iran's Censors Pressure Advertisers, Novelists."

¹⁷⁶ Alkhas, Buna. *Būnā'nāmah*. 2012. Print.



Figure 1

In Figure 1, we have an Iranian man in proper Iranian Islamic attire—bearded, buttoned-up shirt with no tie—who has an erection as a result of gazing at a window display of women’s wigs—the humor lying, in part, in the arousal provoked by the sight of uncovered hair. The violence of censorship has the opposite of what is declared to be the intended effect; rather than diminishing threats to the Islamic state, censorship exaggerates their seduction and appeal, which then accelerates and increases the state violence that claims to seek to contain or disarm the threat. Post-revolutionary Iranian cinema has engaged with the complex results of censorship by emphasizing incommensurability. For example—in the context of a woman’s hair being banned from public view—a shot of a single strand of a woman’s hair caught in a hairpin, as seen in

Figure 2, can convey intensely loaded ideas of body and womanhood in Majid Majidi's film *Baran*.



Figure 2

If it were not for the ban on showing a woman's hair, this scene would not convey all its extended implications, i.e. the other hidden and forbidden parts of the woman's body and femininity, and the intimate physical contact between the bodies of the actor and actress. For Khomeini, media was a crucial site of nation-building, a potential-filled medium that could be wielded to implant in Iranians true Islam. As Mottahedeh notes, Khomeini specifically blamed cinema as a tool for the Western contamination of Iran.¹⁷⁷ The contamination of women's bodies was a doorway that led to other poisons such as imperialism and capitalism. Thus, the modesty of women served as a symbol of the re-Islamicized and therefore purified, Iran, and gender and sexuality became an ever-present "crisis."

¹⁷⁷ Mottahedeh, *Displaced Allegories*, 1.

Don't be mistaken, it's not because of the restrictions that I have chosen this style. There is no privilege in restriction. In other words, I disagree with people who say restriction makes you more creative. I think that's a misleading slogan. I might have been more creative without them than with them.¹⁷⁸

One year after the Revolution, Iran participated in an eight-year long war with Iraq that reinforced Iran's nationalistic narrative for enacting censorship. In *Surviving Images*, Rastegar notes that this period produced "sacred defense cinema" (*sinema-ye defa'-e moqaddas*), a religious-nationalist cinema sanctioned by the state. This filmmaking was at first distinguished by the complete absence of women, until the late 1980s when women were cast in leading roles that served patriarchal and nation-building purposes. "Sacred defense cinema" was characterized by strict moral binaries (hero/villain, friend/enemy, revolutionary/antirevolutionary, haram/halal, etc.); trauma production and preservation; and the theme of sacrificing oneself—and one's desires—for the nation, in order to achieve spiritual transcendence. The latter aspect of "sacred defense cinema" is much like the practice, as depicted in Marjane Satrapi's memoir *Persepolis*, in which the government, often unbeknownst to their parents, gave young boys plastic keys in order to coax them to enlist as soldiers in the Iran-Iraq war, with the promise that the keys would open the gates to a virgin-filled paradise in the afterlife. Rastegar observes that the government routinely used trauma-production and

¹⁷⁸ Farhadi, "A Separation's Asghar Farhadi."

preservation during the Iran-Iraq war, but that it also continues to use it as a political and cultural tool today. The government promotes trauma-production and preservation through a deceptive rhetoric of healing and resolution, while in fact perpetuating a sense of collective unresolved trauma and mourning, to exploit it for its own nation-building purposes. For example, the Islamic government holds annual federal holidays that involve public self-flagellation ceremonies to mark the sacrifices of Islamic prophets—a kind of morbid and traumatic parade through the streets of the country. Additionally, those who died in the Iran-Iraq war are celebrated as martyrs, and enormous murals of their faces can be seen painted along skyscrapers across the country.

By the 1990s, however, a new cinema was emerging in Iran, one that dealt with censorship through more poetic, allegorical and abstract means. Directors like Mohsen Makhmalbaf, Abbas Kiarostami and Bahram Bayza'i were making films that utilized non-actors, young children as protagonists, and a more poetic and far less narrativized film aesthetic. These films employ silence, subtle allegories and an overall more complex and nuanced portrayal of contemporary Iranian society and culture. The global dissemination of Iranian films in the 1990s produced tremendous international visibility and notoriety through international film festivals, thereby rupturing the geographic and cultural isolation that the Iranian government had been cultivating since the Revolution.

Many films produced in Iran, and diasporically, disclose, question and resist the all-encompassing legal, religious and political rubric that strives to dictate how, when and why films can be made in Iran. These films intervene in the official narratives that underlie states of emergency. Writing about the generative and subversive potential of

art, including cinema, Nafisi writes:

You don't read *Gatsby*...to learn whether adultery is good or bad but to learn about how complicated issues such as adultery and fidelity and marriage are. A great novel heightens your senses and sensitivity to the complexities of life and of individuals, and prevents you from the self-righteousness that sees morality in fixed formulas about good and evil.¹⁷⁹

By insisting on complexity, ambiguity and an animated and unyielding scrutiny, art forms such as literature and cinema can stage critical interventions in the fixed and single account imposed by governments in states of emergency. Ultimately, whether directly or indirectly, by revealing the immense violence and repression of surveillance enacted through the system of Iranian censorship, as Mottahedeh notes, filmmakers challenge the reputation that Iran tries to cultivate for itself as “the ethical hub of Islam.”¹⁸⁰ The interventions staged by filmmakers subvert the repressive and punishing system of censorship that the Islamic government justifies through a rhetoric of transcendence, sacrifice and purity. Films like Panahi's *This is Not a Film*, Ghobadi's *Turtles Can Fly*, and Farhadi's *A Separation* strategically employ ambiguity as a means to disclose and undermine the authority of the Iranian government's punishing morality, and thus to challenge the laws derived from it.

Panahi's *This is Not a Film* perhaps most explicitly challenges the enforcement of subjectively interpreted divine law. This documentary film was made while Panahi was under house arrest, banned by the government from making films or giving interviews for 20 years, and awaiting a trial that could force him to serve years in prison; it was smuggled out of the country in a flash drive concealed in a birthday cake. The title itself

¹⁷⁹ Nafisi, 133.

¹⁸⁰ Mottahedeh, *#iranelection*, 44.

breaches the binary of film/not-film: we are watching a film that, before we begin to view it, the director tells us is not a film. In the movie, Panahi invites a colleague into his living room to record him reading and enacting a screenplay which he did not receive governmental permission to make. The plot of the script involves a girl who is trapped in her home by her religiously conservative parents, allowing Panahi to explore his own circumstances through the story of the character he has invented. Though he begins reading the screenplay with enthusiasm, he eventually grows frustrated and storms out. When he re-appears in the frame, he is scouring DVDs to show clips from his own previous films. He screens two scenes from two of his prior films—*Crimson Gold* (*talaye sorkh*) and *The Circle* (*dayereh*). In the first clip, Panahi draws the viewer's attention to the fact that it is the actor who is directing the film; in the second clip, in which a woman is running through a corridor lined with pillars, as seen in Figure 3, Panahi points out that it is the setting that is directing the film at that moment.

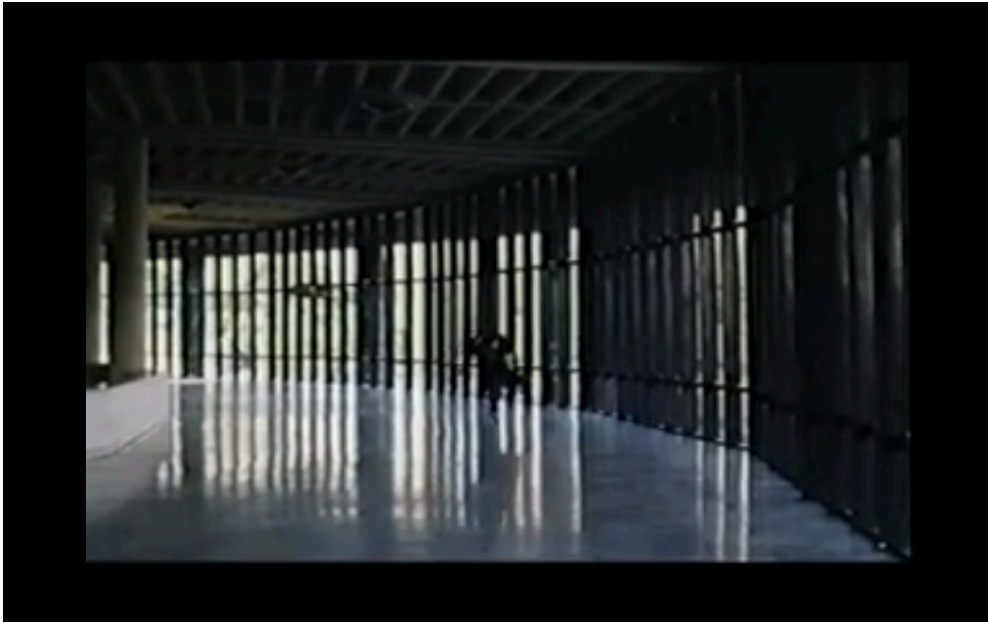


Figure 3

He then makes the point that one cannot anticipate what a film will be before it is made; there are countless surprises, and a plurality of filmmakers including the director, that ultimately culminate in the end product. Again, Panahi invokes the question of what is a film, and at what point in its production does a film *become* a film? This ambiguity of categorical containments challenges the certainty of the terms on which Iran's Islamic laws are based.

Unlike Panahi's film, which rhetorically and directly confronts the post-Revolutionary laws themselves, Ghobadi's 2004 film *Turtles Can Fly* challenges the moral binaries that underpin these laws. Ghobadi's film embodies, from its inception, a permeability of borders: the director is Kurdish-Iranian, and the film is set in Baneh, a disputed border town in both Iran and Iraq. The primary demographic of the cast is

Kurdish, a population spread geographically across Iran, Iraq and Turkey. In this way, the singular national identity of the film is complicated. The film is set during the days leading up to the second U.S. military invasion of Iraq. The area is riddled with undetonated land mines that children, many with missing limbs, unearth to trade or sell as a source of income. The landmines are a brutal remnant of the eight-year Iran-Iraq war—a war fought, in part, over a dispute over the precise location of national borders. During the war, millions of landmines, countless of which remain undetonated, were buried in Iran near the Iraqi border.¹⁸¹ These landmines kill and maim over a hundred people a year, many of them children.

Turtles Can Fly emphasizes the inevitable exclusion and victimization of individuals when explicit, singular descriptions of good and evil have been determined and imposed on a whole society. The female protagonist of the film, Agrin, is caught between the government's idealized version of love, mercy and compassion, and her own despairing hopelessness in regard to love, marriage and acceptance. Through flashbacks the film reveals that Agrin, who appears to be 11 or 12 years old, was gang-raped by Iraqi soldiers, which left her pregnant with a blind son who everyone thinks is her younger brother.

¹⁸¹ Otis, "Decades On, Land Mines Shatter Young Lives in Iran."



Figure 4

In one scene, Satellite, the young male protagonist, courts Agrin. Here the disparity between his hopefulness and her hopelessness is stark—and it is rooted in a very real and deeply entrenched disparity in their life possibilities. Through their interaction, the film draws attention to the unsustainability of the government’s single narrative, and its rejection of pluralities. When Satellite tells Agrin he’s been looking for a girl like her for years, the possibility of a “pure” future courtship and marriage is marred by her rape—an incident entirely out of her control and yet entirely determining her fate. Satellite assumes that Agrin is a virgin. If he were to discover what in fact had happened to her, how would he react? Even if we are to believe that he would adopt the culturally uncommon response of accepting and supporting her, how might he be compelled to react as a result of social and cultural pressure? As Maria Garcia writes:

Kurdish society...views the victims of rape as unworthy of marriage;
while the villagers think the blind toddler is a sibling, and Agrin and

Hengoa [her older brother] move frequently to protect this fiction, Agrin lives in fear that someone will eventually find out the truth and she will be shamed.¹⁸²

Thus this film evokes the question, where in Iranian society and where in the government's depiction of Islamic goodness, love and courtship does this girl fall? Where is the place for her victimization to be acknowledged? Where is the space for mercy and charity toward her? Where is the space for her future, for her healing, for her being romantically loved and valued? By depicting stories of individuals such as Agrin, Ghobadi highlights the myth that the much-coveted women's modesty promoted by the state is entirely within a woman's control. When an illusory and singular version of goodness is imposed as the dominant and correct narrative, girls like Agrin have no place in it. They are simultaneously blamed and rendered invisible, which further amplifies their violation.

This, of course, is not simply a product of censorship in media—this is a larger historical and social problem in Iran and around the world, including in the United States. Cultures that validate and make exceptions for the lust and desires of (only) men often blame women and girls for arousing that desire. In Iran, this is part of the same cultural attitude that punishes a man with thirty lashes while tying a noose around the throat of the woman with whom he has had intercourse. This is the same cultural belief that demands a woman's virginity before marriage while simultaneously enacting laws, such as *sigheh*, that allow men to be "Islamically blessed" in their adultery and involvement with

¹⁸² Garcia, "Turtles Can Fly."

prostitution.¹⁸³ By drawing the viewers' attention to those who—like the countless homeless and drug-addicted war veterans begging for change at the feet of enormous government-funded murals of their dead fellow soldiers—are excluded from a discourse that claims to assert right and wrong for all, cinema undermines the purported objectivity of the divine law enacted and enforced by the Islamic Republic.

Like Ghobadi's film, Farhadi's *A Separation* complicates the punishing binary of *haram* and *halal* that dictates the day-to-day lives of Iranians in Iran. The film includes a cast of characters who face ethically complicated decisions, none of which can be categorized as good or bad, pure or impure. As one blogger writes about Farhadi's film:

A Separation is blatant about the desire of many Iranians to leave the country, and looks unflinchingly at gender and class inequality, the cost of religious fundamentalism on everyday life and the limitations of the Iranian legal system. It is a film full of shades of grey, and complexity has always been the enemy of the propagandist who prefers the world to be portrayed in black and white simplicity, good and bad, us vs. them.¹⁸⁴

Farhadi's film challenges the forced moral rubric of the government by compromising its portrayal of an absolute and uncomplicated morality. In *Velayat-e Faqih*, Khomeini emphasizes the universally just and efficient nature of employing *sharia* law in Iran:

For example, the method established by Islam for enforcing people's rights, adjudicating disputes, and executing judgments is at once simple, practical, and swift. When the juridical methods of Islam were applied, the *shari'ah* judge in each town, assisted only by two bailiffs and with only a pen and inkpot at his disposal, would swiftly resolve disputes among people and send them about their business.¹⁸⁵

¹⁸³ Labi, "Married for a Minute."

¹⁸⁴ Michael. "Burning Questions: What's Controversial About 'A Separation'?"

¹⁸⁵ Khomeini, 31.

In a patriarchal society whose social, political and judicial infrastructure are derived from a group of men's anti-aporetic interpretations of right and wrong—interpretations that restrain and deform the expression of those who are subjected to them as law—*A Separation* blurs these categories by portraying the ambiguities inherent to life and living. In this way, the film puts into question not only the process by which individuals are judged in Iran, but also how they are punished as a result of those judgments. Alec Nevala-Lee writes that the film is “one of the hardest kinds of stories to tell in any language: one in which there are no villains, and in which everyone's motives are basically sound, but which nonetheless leads to tragedy.”¹⁸⁶ Farhadi's film depicts a middle-class couple that is divorcing after being granted a soon-expiring visa that will allow them to permanently leave Iran. The husband chooses to remain in Iran to continue caring for his elderly father, and the wife desperately tries to coax her daughter to leave Iran with her, presumably for a better life. The story is further complicated when the husband hires a financially struggling woman to care for his father. The film extends its depiction of ambiguity from those who are judged to the entities who do the judging. In one scene, Razieh, the woman who has come to Nader's house to clean and care for his elderly father, faces a dilemma. Nader's father has soiled himself and cannot change out of his own clothes. Razieh—who is more economically disadvantaged and more religiously conservative than the protagonist—calls a telephone number in her phonebook to ask whether or not it would be a sin for her to help the old man change out of his soiled clothes and into clean ones. Razieh is distraught over how to both satisfy the moral mandate of doing good for those in need, and maintaining her modesty and moral purity

¹⁸⁶ Nevala-Lee, “Radical Ambiguity: *A Separation* and *Certified Copy*.”

as a nonfamilial woman. The human on the other end of the line—likely a representative of a government-sponsored religious hotline—proceeds to ask her questions about the situation (whether anyone else is at home, the old man’s age, how urgent the situation is) before finally giving Razieh permission to proceed. She does so, reluctantly, after Razieh’s daughter promises not to tell her father, Razieh’s husband, about what is about to happen. The fact that the person on the other end of the line made an individual, human determination of what was right or wrong in that moment, and that Razieh proceeded with the action *while* feeling discomfort and doubt regarding the possible sinfulness of her actions, reveals the ambiguity of *all* morality—even that which the government publicly delineates with certainty. This film emphasizes that there can be no fixed, universal moral rubric that can be applied to all people in all circumstances.

Films like *A Separation* reintroduce an essential vagueness to the depiction of human relationships and decision-making, thereby disarming the version disseminated by the government through its implementation of *Velayat-e Faqih*. The disruption of moral binaries through the articulation of moral ambiguity in Iranian cinema is crucial to the possibility of subverting political, cultural, juridical and physical violence enacted by the state. These films’ insistence on aporetic readings of human behavior, identity and relationality question the codified and universally applied divine laws through which the Islamic government operates its perpetual state of moral, economic and political emergency.

CHAPTER 3

Crisis and Condemnation

In a perpetual state of emergency, the state publically legitimizes its violence, in part, through rhetoric that, as Charles W. Mills writes, “already has embedded in it a narrative, a set of assumptions about innate inferiority, which will preclude certain possibilities.”¹⁸⁷ Both the post-Revolutionary Iranian and contemporary U.S. governments perpetuate their foundational states of emergency by way of narratives that preclude possibilities: specifically, through condemnation and linguistic maneuverings that serve to conceal discrimination under the guise of fairness. Drawing intersections through the work of several scholars, including Mills, Avital Ronell, Édouard Glissant, Cheryl Harris, Roxanne Dunbar-Ortiz and Walter Mignolo, as well as post-Revolutionary Iranian filmmaker Tahmineh Milani, in this chapter I consider how state-sanctioned rhetorical violence operates, what it generates and who has the license to deploy it in the context of a perpetual state of emergency. Specifically, I consider the following questions: How is language employed in the political and cultural context of a law, as well as in the law itself, to assert mastery? How is this language strategically crafted and shifted over time to convey fairness and/or justice on behalf of the state, while still imparting systemic and discriminate violence?

...she paid a price for her opinions.¹⁸⁸

¹⁸⁷ Mills, 27.

¹⁸⁸ *The Hidden Half*.

Post-Revolutionary Iranian filmmakers who cultivate a discourse around state violence in their cinema put themselves at higher risk for the very violence they scrutinize. After director, producer and screenwriter Tahmineh Milani released the film *The Hidden Half* (*Nimeh-ye penhan*) in the Islamic Republic in 2001, the Iranian government accused Milani of supporting counterrevolutionary and armed opposition groups. She was charged with “supporting factions waging war against God” and imprisoned for two weeks prior to being released on parole.¹⁸⁹ For months after her release, Milani contended with the possibility of legal state execution as a punishment for her purported crimes. The premise of the film for which she was being condemned reflected her own current circumstances: in *The Hidden Half*, a woman sits on death row, awaiting possible execution and seeking an opportunity to meet with the judge who has been tasked with deciding her fate. Upon learning about the woman’s alleged crimes and resulting punishment, the judge’s wife, Fereshteh, writes her husband Khosro a confessional letter that reveals her own past as a Communist political organizer and activist—precisely the same crimes for which the condemned woman is being incarcerated.

The Hidden Half is a uncommon example of explicit cinematic intervention in post-Revolutionary Iranian state violence; most post-Revolutionary Iranian films disclose and challenge state violence through means that are allegorical and implicit, and thus more difficult for the state to police; however, as Iranian film scholar Hamid Naficy

¹⁸⁹ Ross, “Hollywood Offers Support for Iranian Director Facing Death.”

writes, Milani's film *The Hidden Half* offers a rare "direct social criticism."¹⁹⁰ While he praises some aspects of Milani's political and social boldness, Naficy considers her work "commercial" and "ideological and brash."¹⁹¹ Counter to his reading of Milani's filmmaking, Naficy proposes that "in the works of the best poets and filmmakers...indirection, implication, restraint, and limitation become strategies of creative agency" thus opening texts to "multiple interpretations."¹⁹² While I agree with Naficy's assertion regarding the generative possibilities of poetic resistance, I do seek to consider the value, in terms of disclosing and subverting state violence, of Milani's explicit, direct, and unambiguous style of filmmaking in the context of post-Revolutionary Iran's perpetual state of emergency. I will more carefully elaborate my reading of poetic resistance as a practice of radical openness in the fifth chapter, but I would also like to offer a brief reading of it here. In my deployment of the term "poetic resistance," I draw from Glissant's theory of Relation, in which he writes that the poetics of Relation is an "uncertain path" that "remains forever conjectural and presupposes no ideological stability"; the poetics of Relation are "latent," "open," and "directly in contact with everything possible."¹⁹³ In their latency, poetic encounters harbor seeds—elements that are concealed and developing; importantly, this reading of latency refers not only to that which is not fully formed, but also to the illusory quality of a linear progression that embodies an absolute conclusion, an illusory endpoint that marks an arrival at a successfully complete development. In other words, the latency to which Glissant refers

¹⁹⁰ Naficy, 168.

¹⁹¹ Ibid., 167.

¹⁹² Ibid., 204.

¹⁹³ Glissant, 32.

draws attention to necessarily always developing and adapting—and thus perpetually conjectural and ideologically unfixed—modes of communication and reading. As with Trinh T. Minh-ha’s valorization of “infinite suggestiveness,” poetic encounters and modes of resistance are plural and in contact “with everything possible”—including that which falls outside of, or is suppressed within, hierarchically-determined privileged modes of perception. The rhizomatic form—a configuration of poetic relation Glissant takes from Gilles Deleuze and Félix Guattari, and develops—embodies the anticipation of and openness to change; the rhizome defies permanence, hierarchies and totalitarianism. In cinema, the latency and plurality of poetic resistance may include deliberately withholding resolution; avoiding linear, destination-driven narratives; unsettling ubiquitous modes of cinematic framing and focus; and juxtaposing elements that may seem, at first encounter, unrelated, but whose proximity generates plural, unanticipated readings for both filmmaker and audience. Importantly, poetic engagement, like any creative act, can serve as a rupture to the violence of an absolute and singular understanding—a version of understanding that Glissant identifies as being bound to the verb *to grasp*, and thus to enclose, to dominate and possibly to appropriate. Thus, poetic engagement can disarm condemnation by undermining the very possibility of a form of understanding and representation based on mastery.¹⁹⁴ Post-Revolutionary Iranian cinema often resists state violence poetically, and thus implicitly, as these modes of resistance are more difficult to identify and regulate amidst Iran’s “Islamist politics of certainty.”¹⁹⁵ Whether through Farhadi’s use of complex moral ambiguity, or the abstract and dream-

¹⁹⁴ Ibid., 161-162.

¹⁹⁵ Naficy, 195.

like cinematography of such films as Mohsen Makhmalbaf's 1996 *Gabbeh* or Abbas Kiarostami's 1997 film *Taste of Cherry* (*Ta'm-e gīlās*), post-Revolutionary Iranian cinema is a site of frequently poetic cinematic resistance to state violence.

However, I also aim to examine the potential value of Milani's explicit filmic resistance—namely through her depiction of male characters, and through her direct criticism of state violence through character dialogue. Interestingly, Naficy criticizes Milani's work for what he perceives as a dismissive and stereotypical portrayal of men as “spineless,” “boorish” or “brutes,” offering that the filmmaker reproduces gender binaries that generate male “caricatures,” rather than offering a more complex and compassionate analysis of men.¹⁹⁶ While I don't agree with Naficy's sweeping generalization regarding the male characters in Milani's films—the husband, Khosro, in *The Hidden Half* for example, is sufficiently thoughtful, considerate and respectful of his wife's intellect and viewpoint that he willingly reads through the entirety of his wife's revealing letter, and later takes her advice to meet with the condemned woman—I do seek to consider how an explicit filmic reproduction of condemnation may constitute a form of resistance against a state that enacts violence through condemnation. I propose that if men are in any instance presented as caricatures in Milani's films, then discrete qualities are extended and exaggerated into a total representation. Such characters-as-caricatures would be reflective of, and thus able to elucidate the violence of, the practice of condemnation. In other words, to claim a full understanding or “grasping” of an individual and to convey this understanding through a totalized representation is not a revelation but an

¹⁹⁶ Ibid., 168-169.

effacement. In providing caricatures, Milani offers what Walter Benjamin refers to as “symbols,” which in seeking to completely contain and represent, misrepresent, conceal and distort. In this way, it could be argued that Milani criticizes this state practice by reenacting it through own filmmaking.

In his *The Origin of German Tragic Drama*, Benjamin examines the baroque—considered at the time to be a marginal, non-norm form of drama—conveying there is no one-to-one correlation between symbols and meanings. He posits the model of the mosaic—of fragments, constellations and relations—as the most accurate and productive way to read the world, in part because fragments and extremes reveal the false appearance of totality that symbolism tries to convey. He argues one should look precisely at the fragments and the extremes because they deviate most from the norm, the latter being designated and enforced by dominant powers. Benjamin acknowledges that there are always things we do not and cannot know, a fact that undermines our totalizing and narrativizing capabilities. Importantly, Judith Butler further develops this notion to observe that, not only are there limits to our knowing, but also to “know the limits of acknowledgment is to know even this fact in a limited way; as a result, it is to experience the very limits of knowing.”¹⁹⁷ In other words, knowing you don’t know doesn’t substitute knowing; and, even how well you “know” your not-knowing is limited, further revealing the limits of the possibility of knowing. In other words, a caricature is a form of condemnation, and thus an example of symbolism as articulated by Benjamin. Ultimately, caricatures, condemnation and symbols feign mastery to conceal that which

¹⁹⁷ Butler, *Against Ethical Violence*, 42.

we do not and cannot know. Benjamin's response, however, is not to condone a rush to transcendence and its cathartic release in the face of this not-knowing, because such a rush to transcendence involves a suspension of intervention and contemplation.

In place of the symbol, which presents itself as being total and unified, and thus an unlimited knowing, Benjamin proposes the allegory as a mode of reading and operating. Symbol, an aesthetics of power, presents itself as being total and unified. For Benjamin, while truth possesses genuine unity, systems and phenomena have a false, coerced unity, and offer a fabricated or distorted representation of truth.¹⁹⁸ Symbolism is the conception that a single meaning lies directly behind the image, such that the symbol *is* the thing it depicts. However, allegory is relational and takes ambiguity into account. It is the manifestation of what Benjamin refers to as arbitrariness; the meaning of a sign can be multiple and is not transcendently determined. Allegory, according to Benjamin, emphasizes we do not know and cannot entirely contain, through law or language, the meaning of a text, a person, a culture, etc. Instead of deferring to transcendence as a means of relinquishing personal responsibility, allegory gestures to that which cannot be represented or circumscribed:

In the field of allegorical intuition the image is a fragment, a rune. Its beauty as a symbol evaporates when the light of divine learning falls upon it. The false appearance of totality is extinguished.¹⁹⁹

Systematizing and “ensnaring” truth undermines the pursuit of disclosing truth, because “the uncircumscribable essentiality of truth” cannot be contained or circumscribed

¹⁹⁸ Benjamin, *The Origin of German Tragic Drama*, 33.

¹⁹⁹ *Ibid.*, 176.

through limited, external systems.²⁰⁰ Instead, he offers the mosaic model—a number of indirectly-related fragments that call for ongoing and unresolved contemplation. With the mosaic model, one must come to one's own conclusions, and the conclusions are never complete or fixed; the process involves returning to and deepening one's understanding of the object being read.²⁰¹ Benjamin asserts that true contemplation widens its scope of interrogation and re-appraises its object of contemplation. Benjamin's model of the mosaic is aporetic, and in its rejection of symbolism provides a gesture, a constellation, for reimagining our relations to condemnation. If, as Naficy proposes, Milani's male characters are typically caricatures, then through them she condemns those who are typically privileged in the Islamic Republic; thereby, through the deliberate depiction of caricatures, Milani offers instructive expressions of the violence of condemnation against women. Perhaps by putting the violence of condemnation on display through purposefully exaggerated representations of men, Milani criticizes the state practice of condemning women, and thus the state's coercive concealment and distortion of that which is latent, unfinished, and diverse in every individual.

Much of the explicitness of Milani's film's critique of state violence is achieved by rendering character dialogue as the primary site of political discourse, such that the characters directly articulate their critique in the film.²⁰² In *The Hidden Half*, the characters' perspectives as conveyed through their own declarations call into question and dispute Iran's state violence. For example, in one flashback, Fereshteh's prior

²⁰⁰ Ibid., 28.

²⁰¹ Ibid., 28-29.

²⁰² Naficy, 94.

romantic partner, Roozbeh, pontificates to a group of rapt intellectuals, proclaiming that what constitutes freedom is above all when a person “can say no, whether to political, religious, artistic or literary authorities.” The straightforwardness of such a declaration, in particular in the context of censorship, which exercises violence through surveillance, imprisonment, torture, and execution, puts the speakers—both the character and the filmmaker—at tremendous risk. In writing this dialogue, and producing and disseminating it through her film, Milani valorizes dissent against political, religious and cultural authorities with whom one disagrees. Negar Mottahedeh writes that in Iran “prohibition and production are deeply correlated.”²⁰³ For post-Revolutionary filmmakers embedded in comprehensive legally codified state violence, this correlation heightens the political valence of any gesture toward an otherwise; in other words, to unambiguously express in a venue that is rigorously policed for deviance and punished by religious authorities that freedom is the ability to say no to religious authority, not only challenges this authority that claims to be deified in its interpretation and enforcement of laws, but also radically ruptures, by gesturing to an other possibility, the narrative deployed by the state to preclude possibility. The dialogic and epistolary format of *The Hidden Half* also constitutes the premise of the film; the story is ultimately an extended plea written by Fereshteh on behalf of the woman who is charged with being a counterrevolutionary. The woman, whose fate rests in the hands of Fereshteh’s husband, has also written a letter to Khosro, asking for the opportunity to tell her side of the story. Alone in a hotel room, Khosro reads the correspondence his wife has left for him. Apart from the letter’s

²⁰³ Mottahedeh, *Displaced Allegories*, 3.

introduction and conclusion, which the viewer experiences through Fereshteh's voice played over the image of Khosro reading the letter, the viewer encounters the letter's content through extended flashbacks that constitute the bulk of the film. I wish to examine the opening and closing of this confession—presented near the beginning and end of the film respectively—during which Fereshteh directly addresses her husband—in order to consider how the filmmaker reflects on the issue of condemnation. The start and finish of Fereshteh's letter are as follows:

Dear Khosro, we have lived together for 17 years, and in all these years, I have asked myself how much this man, the man with whom I have lived, knows me. I know you for the most part. You have the privilege of being a man, and that is why you can talk about your thoughts, school memories, different American colleges, camping trips, and other adventures around the world. But what about me? I'll be 40 in six months. What opportunity have I had to introduce myself to you, as I am, rather than as others want me to be?

...If you didn't know the whole story and someone told you that your wife had been with a man she loved 20 years ago, what would you think? You always called me a good and honest woman. My darling, I owe all this goodness to my past. The period that I passed, with all its difficulties, helped me to know life deeply not superficially. If I wrote all this for you it was so you could help a woman who you believe isn't morally sound. Maybe she was convicted by unfair societal rules, and not for a real crime. She could have been me, Zohreh, or Farkhondeh. I beg you to go and listen to her words, to all of her words.²⁰⁴

In this written communication to which the viewer/listener is given access, Fereshteh draws attention to gender inequities in Iran, specifically citing privileges afforded to men

²⁰⁴ First, my use of the ellipsis here refers to the bulk of the film, which is depicted through flashbacks; the ellipsis separates the start of the letter from its ending. Second, I have made an adjustment to the translation here. The English subtitles embedded in the film translate the Farsi expression "sar be rah" as "easy." However, in English, the latter word has a sexualized connotation; one not embodied by the Farsi term. The term "sar be rah" literally means "head to path." I have chosen to use the term "morally sound" given the context of Khosro's exchange with Fereshteh. The expression "sar be rah" can also be translated to "not troublesome," "well behaved," "respectable," and "good"—as in "a good woman."

and withheld from women; these “privileges” include unencumbered international travel, and, importantly, the license and power of self-representation un-coerced by the externally determined preclusion of possibilities which post-Revolutionary Iranian women endure. In pleading for her husband to listen to the condemned woman’s words, Fereshteh draws attention, in explicit terms, to the potential gravity and stakes of representing oneself. In the context of social, historical and political repression and violence, one’s very life may hinge on the possibility of presenting oneself as one “is” rather than as others want one to be.

Throughout her film, Milani addresses the practice of condemnation—in particular, what Fereshteh identifies as judging too quickly, and judging with too little information, neither of which are mutually exclusive or inclusive. At the film’s opening, when Khosro reminds his wife that he is a judge after having been criticized by her, Fereshteh warns him that as a judge it is particularly important for him to not too hastily cast judgment. The sentiment is echoed at the end of the film when Roozbeh, her previous romantic partner, tells Fereshteh that two decades prior she had judged him too quickly and thus unfairly; specifically, Roozbeh posits that to judge too quickly, and in particular to condemn, as in his own circumstances, is to be a bad judge. In this way, Khosro and Fereshteh’s moral superiority are challenged, and thus the moral superiority and claims to mastery of the Iranian government, thereby offering a model of moral permeability and doubt that can serve as resistance to the totalitarian and binary morality offered through the Iranian government’s legal and judicial systems.

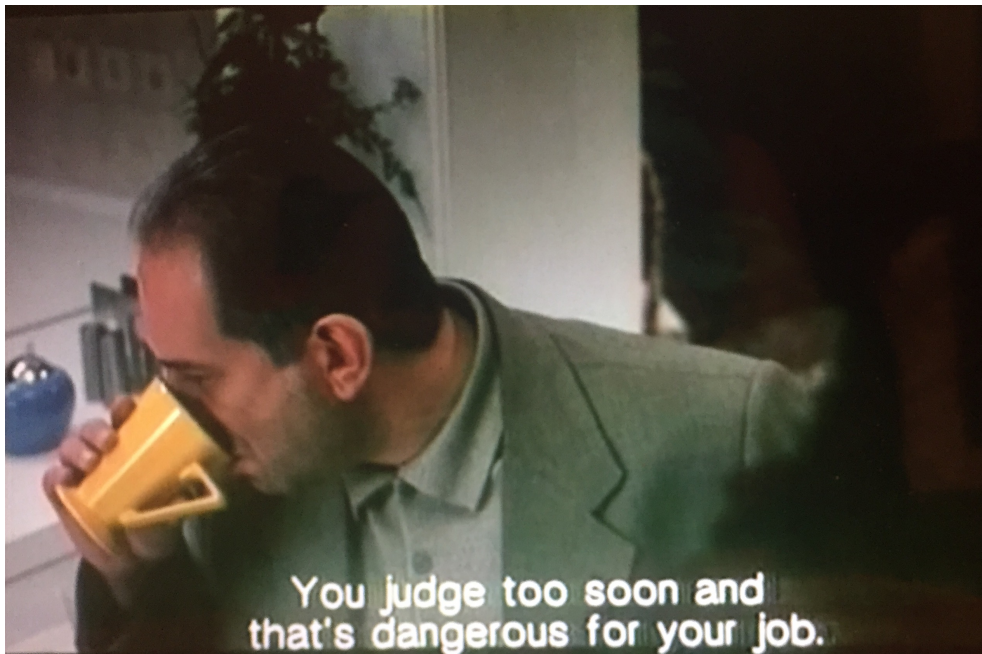


Figure 5



Figure 6

In post-Revolutionary Iranian legal and juridical systems, the judge wields a tremendous amount of autonomy and authority. Rarely does a trial involve a jury; in nearly all cases, the judge individually arbitrates and decides the verdict. The legal and juridical violence of the perpetual state of emergency plays out explicitly in Islamic Revolutionary Courts, in cases when one is accused of undermining the Revolution, the Islamic Republic, or insulting God. After the Revolution, the concept of defense attorneys was dismissed as a “Western absurdity” by Khomeini’s government.²⁰⁵ Currently few, if any, lawyers represent clients in Revolutionary Courts; many of the lawyers who do—including world-renowned human rights attorneys like Shirin Ebadi—are themselves threatened, arrested and imprisoned.²⁰⁶ In this way, judges hold an individual monopoly on adjudicating, in particular for cases that involve political accusations. Given the power of judges in the Iranian courts, the fact that Fereshteh’s husband in *The Hidden Half* is a judge possesses a particular gravity—he represents the state-determined deification of the Iranian legal and juridical systems, as well as the unchecked supremacy of the state’s determination of morality and criminality.

Early in the film, when Fereshteh asks her husband whether he has yet read the accused woman’s case, he disinterestedly tells her he has read only the first two pages and will likely read the file while traveling to Shiraz. However, in the same conversation, Khosro condemns the woman as being impure and not a good woman, placing his

²⁰⁵ Abrahamian, *Tortured Confessions: Prisons and Public Recantations in Modern Iran*, 125.

²⁰⁶ Daragahi, Borzou. “In Iran, a Cadre of Lawyers Takes the Case of Justice.” *Los Angeles Times*, 27 Nov. 2007, articles.latimes.com/2007/nov/27/world/la-fg-iranlawyers27nov27.

condemnation in direct opposition to the manner in which he perceives his wife, to whom he says, “Not all women are as good and pure as you.”²⁰⁷ It is presumably this statement that persuades Fereshteh to confess her life path—which is parallel to the accused woman’s—in her plea for her husband’s increased patience and nuance in his deliberation and judgment. Fereshteh declares that the goodness for which her husband praises her is a consequence of the choices she made in her past; that is to say, the choices that led her husband to condemn an imprisoned woman are the same choices that led her to become the woman now being honored by her husband. This proposition is radical in the context of post-Revolutionary Iranian cinema; here, Milani challenges the Iranian government’s practice of condemnation by incorporating subtlety and complexity into the story of a woman condemned by the state, by conveying that the imprisoned woman’s crimes should be forgiven, and, most importantly, by expressing the possibility that the actions for which countless women are condemned by the Iranian government can be both positive and enriching in their individual outcomes. Exposing the hidden history of the protagonist—a devoted mother and the wife of a judge, Milani demonstrates that the qualities for which Khosro loves Fereshteh so deeply are in fact a direct result of her life choices, which for countless other women lead to imprisonment and execution. In this way, the filmmaker jars the moral confidence of the Iranian state’s rhetorical violence—the same violence that is later lodged against the director herself. Though not teeming with subtleties, Milani’s film offers a case for a non-binary framework for reading human relations—including the relations of subjectively constructed social institutions, such as

²⁰⁷ See footnote 184.

juridical and legal institutions—that operate through condemnation. In *The Hidden Half*, Fereshteh writes that perhaps the imprisoned woman “was convicted by unfair societal rules, and not for a real crime,” thus challenging the moral premise on which individual criminality is based in Iran. By gesturing to the possibility of societal rules being discriminatory and violent in their administration, Milani challenges the deification of post-Revolutionary Iranian legal and judicial systems. Apart from the film’s reading of the practice of condemnation, namely, judging too quickly and with too little information, I seek to consider what specifically condemnation is, and what it does.

In “Support Our Tropes,” Ronell addresses the significance of condemnation in the context of the post-9/11 U.S. and Iraq war:

Having supplanted rigorous analysis, condemnation, as if to build a roadblock to thinking, has been expressed too often and possibly too recklessly with historically signified villains. I have no interest in attacking one man or his singular decoy—this would be too metaphysical a gesture, and would accomplish no more than locating the origin of event or History in a single (male) Subject. That would be the easy way out: to pin the blame on a proper name that is placeholder for an entire symptomatology of beings.²⁰⁸

By what means does condemnation supplant analysis? As a language of mastery, and thus an abstention from aporia-inducing practices, condemnation displaces scrutiny. And by “scrutiny” I refer to Audre Lorde’s notion of the “intimacy of scrutiny” as a means to disrupt structures of power.²⁰⁹ This scrutiny can rupture the violence of knowledge-as-containment, knowledge-as-possession, and the violence of an absolute and singular understanding. Importantly, in the way I employ the term, scrutiny is ongoing—it is a

²⁰⁸ Ronell, *Stupidity*, 46.

²⁰⁹ Lorde, 185.

perpetually open inquiry—and thus it precludes condemnation’s swift and totalizing assessments. The Islamic Republic incorporates condemnation in its legal and juridical practices, culminating in an exacting system of state censorship. In *The Hidden Half*, Milani challenges the practice of condemnation by forcing the protagonist’s husband, as well as the viewer, to listen to Fereshteh’s story. And by asking Khosro to also “listen to [the condemned woman’s] words, to all of her words,” Fereshteh seeks to challenge the systemic dismissal that condemnation entails. Fereshteh ultimately begs her husband to gain proximity to the condemned woman by hearing her tell her own story rather than merely reading about her through a state-curated representation of her. If one considers scrutiny in terms of proximity, then condemnation can be read as a form of anti-intimacy, casting judgment from a distance that facilitates the condemner representing the condemned in an all-encompassing manner. In the film, by condemning the imprisoned woman without perceiving her voice, and by opposing her in a binary framework to his depiction of his own wife, Khosro conveys a totalizing representation, and thus total knowledge, of the prisoner. Condemnation displaces analysis with fixed answers and escapes what Ronell calls “the anguish of the indecision, complication, or hypothetical redoubling that characterizes intelligence.”²¹⁰ In Ronell’s consideration of stupidity, she notes that intelligence is marked by anti-mastery, and that “in the instance of producing an answer, the intelligent examinee has to *play* stupid.”²¹¹ Thus, true intelligence, as opposed to the mastery conveyed by totalizing representations, is marked by an awareness that it—intelligence—is perpetually incomplete, animate, and incapable of

²¹⁰ Ronell, *Stupidity*, 42.

²¹¹ Ibid.

fully apprehending. When one condemns, one produces an answer, and when a government condemns, in particular in a perpetual state of emergency, it compels its society to “play stupid,” often under threat of legal state violence.

In its assertions of mastery—and its corresponding linguistic and ideological coercions—condemnation “pin[s] the blame on the proper name,” generating the figure of the villain. Khosro expresses disapproval of the imprisoned woman without having heard her story—because he can reference a state-determined narrative that has already characterized her, and subsequently condemned her, citing her corruption and villainy. And in this condemnation is embedded a concealment of mutual culpabilities—the networks of villainy and heroism we all share. The single narrative with which condemnation colonizes discourse serves as a decoy that recklessly disregards the interrelated nature of power, violence, and responsibility, thus perpetuating history’s narrative violences. By determining a single, isolated origin, condemnation—through its rapid calculations and closures—conceals systemic causes and effects, including hierarchies that regulate epistemologies, cultures, populations, modes of communication, etc. When Milani draws attention to the possibility of “unfair societal rules” through Fereshteh’s letter, she undermines the authority of condemnation by shifting the accountability from individual moral failings to a more institutionally-conscious framework of analysis.

In a state of emergency, the state presents the figure of the villain as an enemy that poses a threat to the public good. This enemy may be an individual, such as the young revolutionaries in Milani’s film, and it may be a cultural or social phenomenon,

such as terror, crime, drugs, or moral corruption. Since the rhetorical development of a sense of crisis is crucial to a state of emergency, the state exploits this figure to legitimize increased violence-as-protection. In *Poetics of Relation*, Glissant considers the difference between binaries—which make the figure of the villain possible—and poetics, noting that the former operates through exclusion (either/or), whereas the latter “aims for the space of difference” in which “difference is realized in going beyond.”²¹² This “going beyond” is a possibility beyond/through a limit—an everpresent otherwise than.²¹³ Thus, condemnation is a “linguistic intransigence” that does not allow for a “multiple relation” with the condemned.²¹⁴ Glissant’s use of the term “intransigence” is interesting—it implies both unwillingness and refusal. Refusing a multiple relation with the other has an ethical dimension. Whether, for example, in the case of the Iranian state’s condemnation of “immodest” women, or the American state’s condemnation of “criminal” black Americans and “uncivilized” Native Americans, all assume a hyper-mastery of recognition—a moralizing narrative rather than an ethical address. Instead of interrupting the dominant narrative of a state of emergency, condemnation fortifies it.

Sexist language, racist language, theistic language—all are typical of the policing languages of mastery, and cannot, do not permit new knowledge or encourage the mutual exchange of ideas.²¹⁵

²¹² Glissant, 82.

²¹³ Chandler, *Toward an African Future*.

²¹⁴ Glissant, 15-16.

²¹⁵ Morrison, Nobel Lecture.

As Angela Davis points out, deeming something to be evil implies the existence of an opposite and corresponding good.²¹⁶ Condemnation places the condemner—and all his violences—on the side of the good. And who has the privilege of occupying this position? Who, historically, wields this language of mastery? In post-Revolutionary Iran, those who claim moral mastery and exercise political, creative, social, legal and juridical condemnation are those who hold government positions in the country—such as the Supreme Leader, the Guardian, the Council, the Assembly of Experts, and the Ministry of Culture and Islamic Guidance.²¹⁷ Those who do the condemning in Iran are those who legally support and benefit from a state that subordinates and represses women, non-Shiite Muslims and non-heterosexuals. In the U.S., whose condemnations are enforced by the state—particularly by its legal and juridical institutions? Who decides who is included and in what capacity they are read and positioned? Who are “the observers observing the valley from the top of the mountain”?²¹⁸ And what knowledges are disqualified and by whom? In order to examine state-sanctioned condemnation in America, one must examine whiteness and its relationship to what Mignolo calls, in *The Darker Side of Western Modernity*, the “zero point of observation.” In my use of the term whiteness, I refer, first, to what E. Patrick Johnson calls “the master trope of purity, supremacy, and entitlement.”²¹⁹ I also draw from Cheryl Harris’ reading of whiteness as property, as a legally affirmed position of privilege that entails “the unconstrained right to exclude.”²²⁰

²¹⁶ Davis, *The Meaning of Freedom and Other Difficult Dialogues*, 29.

²¹⁷ “The Structure of Power in Iran: An Overview of the Iranian Government and Political System.”

²¹⁸ Mignolo, *Darker Side of Western Modernity*, 22.

²¹⁹ Johnson, *Appropriating Blackness*, 4.

²²⁰ Harris, “Whiteness as Property,” 288.

Finally, for the purposes of this project, I borrow from Ella Shohat's reading of whiteness in the role of "normative interlocutor" in a binarism, a model on which condemnation relies.²²¹ Much like the deification of the Islamic Republic's interpretation and application of laws, whiteness operates through a guise of mastery and a repression of plurality. According to Mignolo's theory, the zero point observer mandates and regulates, but is himself not observed. From the zero point of observation, one "not only observes but also divides the land and organizes the known."²²² In this way, the zero point observer excludes and conceals by both "devaluing ways of thinking" and "just ignoring them, not taking them into account."²²³ From the zero point, the observer labels, categorizes, privileges, prohibits, and assigns value, without being subjected to the same system of representation. This position inextricably binds the enunciated to the enunciator, whereas the enunciator is unraced, unexploited, uncategorized. As Mignolo points out, the zero point of observation allows European scholars, for example, to "not have to bother themselves with scholarship and intellectual creativity in the former colonial histories, societies and histories of thought, while the latter cannot avoid the former."²²⁴

In *Against Ethical Violence*, Judith Butler writes that "condemnation can work against self-knowledge, inasmuch as it moralizes a self by disavowing commonality with the judged."²²⁵ This observation is crucial to thinking through how condemnation frames

²²¹ Shohat, *Talking Visions*, 6.

²²² Mignolo, *The Darker Side of Western Modernity*, 89-90.

²²³ *Ibid.*, 199.

²²⁴ *Ibid.*, 240.

²²⁵ Butler, *Against Ethical Violence*, 46.

the condemned, as well as how the condemner relates to and perceives himself as a result of his condemnation of the other. Part of the power of the zero point perspective is that it is naturalized—it is, as Mignolo states, a subjectivity feigning objectivity. By transforming his particularities into generalities, the zero point observer establishes the norm; and difference from the norm is read as deviance and therefore punishable. Thus, the enunciator can—through coerced normalization—set the parameters for intelligence, civility, progress, criminality, morality, and resistance, and can enact violence against those considered to be deviating from the norm. As Audre Lorde notes, when one reads human difference as deviance, one makes “a judgment upon the relationship between the attribute and some long-fixed established construct.”²²⁶ And condemnation operates as a totalizing system of representation in which difference is read as deviance. Glissant observes that in any totalizing system of representation, “[e]ither the other is assimilated, or else it is annihilated. That is the whole principle of generalization and its entire process.”²²⁷ I would add to Glissant’s point that assimilation can also operate as a form of annihilation—in particular state-sponsored assimilation, such as in the case of the federal boarding schools to which Native American children were forcibly sent from the 1870s to the 1970s.²²⁸ Single, universalized representations assigned from the zero point are, like Ayatollah Khomeini’s singular interpretation and legal application of the Qur’an, the establishment of a norm that determines deviance and its corresponding punishments. Glissant writes that the universal is a “generalizing edict that summarized the world as

²²⁶ Lorde, 203.

²²⁷ Glissant, 49.

²²⁸ Dunbar-Ortiz, 151.

something obvious and transparent” and “from the world it chooses one side of the reports, one set of ideas.”²²⁹ In the U.S., this transparent, single set of ideas is tethered to the perpetuation of white supremacy, and specifically the supremacy of Christian white hetero patriarchy and its rhetoric of mastery.²³⁰ One form of the narrative violence of white supremacy is what I call the tyranny of objectivity: by this I refer to the coercively normalizing claims of objectivity that pose as neutral, “obvious and transparent,” while imparting tremendous, subjective violence; the guise of neutrality embedded in the myth of objectivity enacts the violence of precluding the possibility of pointing out the subjective violence and thus the possibility of holding the enactors of violence accountable.

To study the role of white supremacy in the perpetual state of emergency in the U.S., one must scrutinize whiteness and its relationship to law. Cheryl Harris identifies the U.S. as a society “structured on white supremacy.”²³¹ She marks the beginning of the legal codification of discriminatory social practices in the 1600s, long preceding the writing of both the Constitution and the Declaration of Independence. In America, the law’s construction of whiteness “is an ideological proposition imposed through subordination,” rather than the “objective fact” it purports to be.²³² In other words, the legal manifestation of white supremacy is imposed through authority and violence; however, in the legal realm, it operates through a tyranny of feigned objectivity. As

²²⁹ Glissant, 21.

²³⁰ Importantly, I wish to emphasize, as bell hooks notes, “Patriarchy has no gender.” Any one of any gender can practice and enact the violences of patriarchy. (Lorde, *I Am Your Sister*, 243).

²³¹ Harris, 277.

²³² Ibid., 281.

Butler notes, “a white racist imaginary...postures *as if* it were the unmarked frame of the visible field, laying claim to the authority of ‘direct perception.’”²³³ Whiteness claims to have the clearest vision. In the U.S., one way that objectivity—including its masking of ideology—is used to exercise rhetorical violence, is through legally codified colorblind language. According to Harris, colorblind rhetoric is a “formal equality” that reinforces white supremacy.²³⁴ She notes that a key aspect of the violence of this rhetoric is the subordination of group identity to individual identity. Evoking John Locke’s social contract, she points out that in the U.S., the law’s focus on the individual reinforces white supremacy by ignoring the institutionalized and systemic nature of racial discrimination. The rhetoric of equality and fairness—based on a prioritization of the individual and the interpersonal—is used to obscure generations of inherited political, social, epistemic, pedagogical, legal, cultural and economic group privilege and discrimination. By focusing on the individual’s rights while denying “the existence of racial groups,” the state eludes accountability for the colonial matrix of power that informs all American institutions and privileges whites—as a racial group. As Patricia Hill Collins points out:

Within this logic, the path to equality lies in ignoring race, gender, and other markers of historical discrimination that might account for any differences that individuals bring to schools and the workplace. As a new rule that maintains long-standing hierarchies of race, class, and gender while appearing to provide equal treatment, this rhetoric of color-blindness has had some noteworthy effects. For one...it fosters a certain kind of race thinking among Whites: Because the legal system has now formally equalized *individual* access to housing, schooling, and jobs, any unequal *group* results, such as those that characterize gaps between Blacks and Whites, must somehow lie within the individuals themselves or their

²³³ Butler, “Endangered/Endangering,” 19.

²³⁴ Harris, 289.

culture.”²³⁵

Often those who seek to disrupt racism do so by drawing attention to its institutionality; however, the cultural and legal preservation of the ruse of equality promoted by “color-blindness” in the U.S. leads to those who seek to disempower racism being labeled instigators of racism. As in post-Revolutionary Iran, the U.S. legal system diverts attention to the individual and interpersonal, thus not accounting for the structural and institutional, when determining criminality, for example. The law’s “studied ignorance” allows for “a pseudo-objective posture” that disregards the reality of “historically dominated groups.”²³⁶ The objectivity of “formal equality overlooks structural disadvantage” and thus normalizes it.²³⁷

The legal affirmation of whiteness and white privilege allowed expectations that originated in injustice to be naturalized and legitimated...The law masks as natural what is chosen; it obscures the consequences of social selection as inevitable.²³⁸

The legal affirmation of the ruse of equality in the U.S., in part through colorblind rhetoric, serves as a legal affirmation of white privilege. As Harris argues, law naturalizes inequity; thus, the law—which itself is written subjectively—operates from a zero point of observation. As Mehdi Khorrami points out, “In the battle of discourses, the victorious discourse is the one which succeeds in projecting itself as normal.”²³⁹ Whiteness, according to Mills, is a privileged mode that strives to conceal its privilege and advantage through normativity. White normativity enforces a discourse of colorblindness that

²³⁵ Collins, 279.

²³⁶ Ibid, 287.

²³⁷ Ibid, 289.

²³⁸ Ibid, 287.

²³⁹ Khorrami, 116.

“underpins white privilege” and punishes those who point out the workings of race in America:

So white normativity manifests itself in a white refusal to recognize the long history of structural discrimination that has left whites with the differential resources they have today, and all of its consequent advantages in negotiating opportunity structures. If originally whiteness was race, then now it is racelessness, an equal status and a common history in which all have shared, with white privilege being conceptually erased... Indeed, the real racists are the blacks who continue to insist on the importance of race.²⁴⁰

The conceptual erasure of white privilege and the colonial matrix of power operate through a stigmatization of the terms “race” and “racism”; thus, when one identifies the workings of whiteness in America, one is accused of the same injustice to which one wishes to draw attention. As Walter Benjamin points out in “Critique of Violence,” the state uses coded language under the guise of fairness and equal enforcement of laws to insidiously target certain populations through the law. As an example, Benjamin cites Anatole France who satirically wrote: “Poor and rich are equally forbidden to spend the night under the bridges.”²⁴¹ In this example, the language implies equality in its application of law, when in fact it directly targets a particular group of people—in this case, the homeless. Similarly, as Michelle Alexander notes in *The New Jim Crow*, the War on Drugs uses racially coded language to conceal the state’s racism and allow for legalized discrimination in the U.S., while feigning equality in both the wording and application of the law.²⁴² She explains that after the civil rights movement and subsequent civil rights legislation, explicit racialized language became taboo; in order to perpetuate

²⁴⁰ Mills, 28.

²⁴¹ Benjamin, “Critique of Violence,” 296.

²⁴² Alexander, 1.

racialized legal, economic and political violence and to sustain white privilege, the state had to operate through coded rhetoric. Thus, blackness and criminality were conflated, such that “crime” and “criminal” were used to signify black people, without forcing the state to be held accountable for its discrimination. This contemporary racism, framed in race-neutral but crime-heavy language, allows dissent to be read as deviance, labeled as a threat to “law and order” and thus criminalized.²⁴³ In the juridical realm, the same rhetoric is employed to disarm dissent through the concealment of institutional white supremacy. The U.S. Supreme Court has repeatedly made it nearly impossible to bring complaints regarding profiling or racial injustice in the judicial or legal systems to the courts. For example, during the War on Drugs, as Alexander notes, the Supreme Court “adopted rules that would *maximize*—not minimize—the amount of racial discrimination that would likely occur. It then closed the courthouse doors to claims of racial bias.”²⁴⁴ For example, in *Whren v United States*, the Court determined that officers can search for drugs even when stopping someone for a minor traffic offense. When petitioners argued that this violated the individuals’ Fourth Amendment rights because officers would likely “be influenced by prevailing racial stereotypes and bias” when determining who to stop and search, the Supreme Court ruled that “claims of racial bias could not be brought under the Fourth Amendment.”²⁴⁵ Alexander observes that this racialized mode of

²⁴³ Ibid., 40-41.

²⁴⁴ Ibid., 108.

²⁴⁵ Ibid., 109.

The Fourth Amendment of U.S. Constitution states: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

criminalization distorts the public understanding of what a crime is and who commits crimes.²⁴⁶ And equating black people with criminality involves “the myth of choice”—choosing to commit a crime and thereby determining one’s own criminality—rather than it being externally determined and imposed by economic and political conditions.²⁴⁷

Ultimately, in the U.S., the image of fairness conveyed through legal rhetorical contortions reinforces the narrative of the American Dream—in particular, the notion of a “level playing field” along which individual merit is rewarded and individual misconduct punished. While both post-Revolutionary Iran and the contemporary U.S. employ a language of mastery in the formation and enforcement of laws, the epistemic and ideological mastery of whiteness conceals itself in a guise of aspiring for equality. Iran’s linguistic maneuverings, however, convey a more explicit violence whose claims to fairness are not rooted in equality, but in a portrayal of the Iranian state as merciful and just *while* enacting violence. For example, in post-Revolutionary Iran the government refers to prisons as sites of education, and more specifically, as “universities.”²⁴⁸ By equating prisons with “centers of education,” the Islamic state tries to maintain the visage of an ethical and moral superiority through justification and sanctification of its official narrative of law and justice.²⁴⁹ What is generated when the state likens a place that historically fosters scrutiny and dissent to a site of severe material and physical containment, finitude and violence? How does this rhetorical coercion impact the concepts of learning, understanding, knowledge-acquisition, and justice? In one rhetorical

²⁴⁶ Ibid., 5.

²⁴⁷ Ibid., 197.

²⁴⁸ Khorrami, 11.

²⁴⁹ Ibid., 42.

stroke, it questions the Islamic purity, and thus the validity and benefit, of existing universities as sites of effective and worthwhile scholarship and learning; it legitimizes and valorizes the physical, psychological, spiritual and emotional traumas suffered by those who are incarcerated; and it reinforces the image of ignorant and polluting enemies of the state who must be educated through whatever means necessary about the supremacy, necessity, and justness of Iran's laws and their enforcement. Another example of such rhetorical violence in Iran involves the regulation of language used inside prisons. As Shahla Talebi explains in her memoir *Ghosts of a Revolution*, prisoners have to refer to women guards as "Sister" and men guards as "Brother."²⁵⁰ In fact, even while being tortured, prisoners must refer to the torturer as Brother, even though the torturers do not refer to the prisoners in these terms:

The voices of those prisoners who, while under torture, would beg the brothers to stop the beatings cried out the paradox of this strange, superficial relation between the torture and the language used by the torturer...it covered up the impersonal and brutal nature of torture under the guise of mere punishment by the parent or older siblings to discipline disobedient children.²⁵¹

This feigned benevolence reinforces the Islamic state's epistemological dominance through the perversion of framing torture as a form of guardianship, moral guidance, and necessary chastisement toward enlightenment. This language reinforces the condemning mastery of the Iranian government, while packaging it in a guise of deified fairness; in accordance with the policies of a state of emergency, it allows for legally sanctioned violence-as-protection. Much like white Christian claims of a divine mandate in the

²⁵⁰ Talebi, 55.

²⁵¹ Ibid., 174.

violent formation of the U.S.—such as in the westward expansion and tandem Native American displacement and genocide, and the legally codified and tremendously profitable brutality against Africans and black Americans—the Islamic Republic’s origin narrative cites divine authority in the successful achievement of the Revolution and Islamic government. In Iran, the government publicly asserts that it is perpetually under attack, and thus in a perpetual state of emergency, as this assertion in no way contradicts the Islamic Republic’s origin myth of moral superiority. In the U.S., however, the policy of perpetual emergency and the hierarchies it sustains are shrouded in an effort to reconcile the ambitions of white supremacy with the claims of the U.S. origin myth—namely democracy, freedom and equal rights.²⁵²

States rely on calculated rhetorical manipulations that either serve to reinforce or conceal the ideological underpinnings of their respective states of emergency. The rhetorical dissimulations endemic to a perpetual state of emergency enable and defend state violence by classifying threats that necessitate violence-as-protection; importantly, these rhetorical strategies naturalize the narrative of innate superiority and inferiority while always fortifying the superior position of the rhetorician. Both the U.S. and the Islamic Republic of Iran practice rhetoric that 1. marks as deviant, condemns and criminalizes; 2. diverts attention from institutional to individual; and, 3. aligns state violence with the nation’s origin myth—in the U.S., this means conveying a false sense of equality based on individual consideration, such as in colorblind legal language, and in Iran, this entails deploying language that juxtaposes the punishment of enemies of Islam

²⁵² Dunbar-Ortiz, 103-116.

with a feigned benevolence and charity, such as with the familial vocabulary demanded in prisons. Condemnation is one mode of rhetorical violence that is crucial to the justification and maintenance of a perpetual state of emergency. To challenge the hypermastery and rhetorical and material violence of condemnation, one must denaturalize it and develop what Patricia Hill Collins calls, in her reading of Black feminist epistemology, “an ethic of personal accountability” in which “all views expressed and actions taken are thought to derive from a central set of core beliefs that cannot be other than personal” rather than universal.²⁵³ Condemnation serves the interests of the state in a state of emergency, diverting attention from the condemner to the condemned; thus, its severance from historical and ethical inheritances must be scrutinized. While condemnation implies one can always completely contain and understand, as Toni Morrison notes, the aporetic and incommensurable quality of life, language, and our responsibility in both, must always be taken into account:

Language can never “pin down” slavery, genocide, war. Nor should it yearn for the arrogance to be able to do so. Its force, its felicity is in its reach toward the ineffable.²⁵⁴

To better understand the generative possibilities of reimagining our relationship to the law through language one must consider this “reach toward the ineffable”; what Ronell describes as “nonclosure” and “the interminable nature of working through,” which cannot coexist with state-enforced practices of condemnation.²⁵⁵

²⁵³ Collins, 265.

²⁵⁴ Morrison, Nobel Lecture.

²⁵⁵ Ronell, “Support Our Tropes,” 39, 53.

CHAPTER 4

Woman as Threat, Nation as Man

There exists a sense of crisis, of imminent threat, intrinsic to any state of emergency. In a perpetual state of emergency—one that is not an exception to the rule, but rather integral to the ideology behind, and formation of, the rule (i.e. the legal, economic, educational and political institutions of the nation)—this sense of crisis is ingrained in the founding of a nation and in its contemporary institutions. While in the U.S. the perpetual state of emergency is bound to the legal hegemony of whiteness, in both the U.S. and post-Revolutionary Iran it is inextricable from male hetero patriarchy, which operates both explicitly and implicitly.

To begin, let us consider a poster that is fairly typical of state-sponsored graphic designs publically displayed in the Islamic Republic of Iran, and which belong to a category of media commonly employed by the government to justify its legally mandated and enforced use of hijab by women. This particular poster, as seen in Figure 7, was created and mounted in a university building by, as noted in small print at the bottom, the Social and Cultural Management Division of that particular university.²⁵⁶ This same image, as well as variations that include side-by-side images of other sugary treats that denote hijab-donning and hijab-rejecting women, can be observed on public billboards across the country.

²⁵⁶ This image was one of many collected through research conducted by means of various search engines, including [www. google.com](http://www.google.com). This particular poster was also referenced by such Iranian American journalists as Negar Mortazavi on her Twitter account, though the exact source of the photograph, or of the poster itself, is unclear: <https://twitter.com/negarmortazavi/status/467771315135721472>.



Figure 7

This particular graphic consists of two side-by-side images. On the right, the horizontal silhouette of a properly veiled woman, her eyes averted from the viewer and whomever she may be facing; below her, a perfectly horizontal and tightly wrapped candy, its delicately designed wrapper bound at both ends. The right portion is green, a particularly significant color in Islam, said to be the color of the flag used by the prophet Muhammad. The left segment of the poster exhibits, in the ever-wicked and seductive red, the silhouette of a woman presumably directly facing the viewer, with her unveiled hair flying in the wind. Below her, tilted at an aesthetically awkward angle that transmits a discarding, hovers a bar of unwrapped candy surrounded by five flies, four of which seek to consume the candy, the fifth of which lies dead. Between the two images, a caption reads from right to left, *Masooniyat ya...?* This caption can be translated to *Immunity or*

...? It can also be translated to *Security or ...?* In either case, the use of proper hijab, according to this poster, is bound to immunity, security, and safety from the appetite of “flies.” This is a very rich image, and the ellipsis allows for wide and diverse interpretations. I would like, however, to consider the one dead fly. First, crucial to this analysis, the use of hijab is legally demanded by the state and deviance from this law is punished by the state. Additionally, in this image, the uncovered woman, the woman who is “unwrapped,” is the one who is at risk of not being secure or immune should something harmful happen to her. Blaming survivors of assault, in particular sexual assault, certainly isn’t unique to Iran. But the dead fly adds more to this practice by transmitting an additional message—namely, that not only is the woman a potential victim, but also, she is a potential threat. In this poster, all accountability falls on the shoulders of the woman: firstly, she is a threat because she is a lawbreaker. Secondly, the responsibility for her safety is entirely, and only, her own: the flies cannot control their nature, they are weak in the face of the sweet nectar of an unwrapped candy, and the seduction of such a candy ultimately may even kill the fly that is unable to regulate its consumption when confronted with overwhelming temptation. Let us now consider, what if the nation, conceptually, politically, religiously, and institutionally, self-identifies as the fly? What would the role of women be in the context of such a nation, and amidst the rallying cries of nationalism?

In this chapter, I seek to consider how the post-Revolutionary Iranian government’s narrative regarding the potential corruption by women in fact identifies women as an always potential threat to the security of the nation. Drawing from Marguerite Waller’s work, I offer that nationhood itself is read as hetero male and in the U.S., also as white, to investigate means through which Iranian and Native American women are marginalized, targeted and considered perilous in Iran and the U.S.,

respectively. I offer a reading of Asghar Farhadi's 2016 film *The Salesman* (*Forushande*) as a means to discern state violence against women and to elucidate possibilities for subversion of this violence. In considering how women pose a threat to the state and by what means they constitute a perpetual crisis, this chapter seeks to examine the gendered—and simultaneously racially/ethnically determined—aspects of the perpetual states of emergency in post-Revolutionary Iran and the contemporary U.S.

Drawing from 1970s gaze theory, in *Displaced Allegories* Negar Mottahedeh identifies an ever-present nonfamilial male hetero gaze in Iranian cinema. In “Visual Pleasure and Narrative Cinema” Laura Mulvey notes that the content and structure of Western narrative film is determined by a codified gaze.²⁵⁷ Using women to satisfy heterosexual men's desires establishes the narrative film's gaze as masculine and heterosexual. Mulvey employs psychoanalysis to read the privileging of the hetero male desiring gaze in cinema; in this paradigm, women are the objects of this desiring gaze rather than the one who desires or gazes. In the paradigm that Mottahedeh offers, the state—and its political, legal, juridical and cultural institutions—assumes the presence of a nonfamilial heterosexual male gazer in the theater audience, and during the production of the film. The ubiquitous and ghostly presence of this gaze renders Iranian cinema an always public space, resulting in state-mandated legal censorship that demands the mandatory use of full hijab in all film scenes, including those that depict private spaces—such as in a character's own bedroom. This gaze—and its corresponding requirement for women to be properly veiled in all cinema—also complicates the realistic cinematic

²⁵⁷ Mulvey, “Visual Pleasure and Narrative Cinema,” 25.

portrayal of the period before July 1980—when the veil was not compulsory and therefore only worn by a segment of the population, as well as the cinematic depiction of geographies outside of Iran where the veil is not the law of the land. For example, in *The Salesman*, the protagonists stage Arthur Miller’s play *Death of a Salesman*. The director of this play, and the director of the film in which the play is embedded, are faced with the challenge of portraying the character of Willy Loman’s mistress in the context of the ever-present Islamic male hetero gaze. For a scene that calls for the character, The Woman, to enter dressed only a black slip, the Iranian stage actress appears wearing a long red raincoat, headscarf and hat, to deliver her line: “But my clothes, I can’t go naked in the hall!” This elicits laughter from a fellow actor, which the actress playing The Woman perceives as disrespect for the moral inferiority of the temptation-wielding mistress whom she portrays. This brief moment in the film is generative. On one hand, the woman immediately assumes that the man is mistreating her, and disrespecting her craft, as a result of the “loose” woman she represents. The premise of such an assumption speaks volumes for the perceived potency of the corruption of women deemed to be a threat; in other words, that the fictional character who is perceived by the state to be immodest, loose and recklessly wielding her power of temptation could “infect” the actress playing this character for a theatrical performance emphasizes how truly dangerous and contaminating the potential corruption of women is for the Islamic Republic. As Hamid Naficy writes, the strength of women’s potential corruption is so formidable that “looking at unveiled or immodest women turns autonomous, centered,

and moral males into dependent, deceived, and corrupt subjects.”²⁵⁸ With this scene, in addition to conveying the subjugating power of women’s potential depravity, Farhadi draws the viewers’ attention to the comical burden of reconciling Iranian state censorship with representing non-Iranian art, for which artist and audience cannot always sufficiently sustain a suspension of disbelief. Many post-Revolutionary Iranian filmmakers attempt to resist the coerced public-ness of the private space, as well as the imposition of hijab on commonly non-hijabi circumstances. For example, in *This is Not a Film*, Jafar Panahi states that he prefers to produce films that are set outside in public places, rather than inside private homes, in order for women in his films to avoid wearing the veil in spaces where women are not traditionally veiled. Panahi also describes a film in which he planned to shave the female protagonist’s head so she could elude the falseness of wearing hijab alone and in the privacy of her own home. In another example, Australian-based filmmaker and poet Granaz Moussavi used wigs and shaved the head of the lead actress in a film she produced in Iran.²⁵⁹ Unfortunately, such strategies provide no certitude in subverting or eluding state censorship: the protagonist of Moussavi’s film, for example, was arrested and sentenced to four months in jail for improper hijab, including her shaved head.²⁶⁰

A fundamental difference between Mulvey’s and Mottahedeh’s readings of the gaze is the social contexts out of which they emerge. In Mulvey’s case, while the gaze is prominent in the content and context of Western narrative films, the U.S. state (namely

²⁵⁸ Naficy, 110.

²⁵⁹ Ibid., 70.

²⁶⁰ Ibid.

its legal, juridical, and political institutions) are less willing than the Iranian state to formally acknowledge the prevalence of the patriarchy from which it has emerged. In Iran, however, this nonfamilial male gaze, whether assumed in cinematic production or in the streets of Iran, is reinforced by modesty-laden rhetoric that has, since the Revolution, been employed by the government toward an isolationist and religious nation-building that is set against the perpetual threat of moral and religious corruption from the West. Not only does the post-Revolutionary Iranian government not deny the overwhelming patriarchy of the broader society, it in fact publically validates it as necessary to maintaining the Islamic purity required for the preservation of the Shi'ite Islamic nation. As Naficy observes, women's legal, cultural and political status as second-class citizens in post-Revolutionary Iran is "one of the distinguishing characteristics of the Islamic Republic."²⁶¹ For the Iranian government, the enforcement and surveillance of an adherence to the hetero male gaze is crucial to the formation and perpetuation of a perpetual state of emergency. The government sustains such a state of emergency by producing a sense of ongoing crisis in which the religious, moral and national identity of the Islamic state is constantly under threat; that which deviates from the government's mandates is criminalized and purged to protect the state. In this way, the Iranian government privileges the hetero male gaze in cinema and elsewhere, situating the responsibility for moral corruption, and for its purging, in the body and mind of women.

Farhadi's film can serve as a site of discernment and disruption of the male hetero gaze in post-Revolutionary Iranian cinema and gendered state violence in the nation. My

²⁶¹ Ibid., 52.

reading of the film is employed in an effort to examine the 1978 U.S. Supreme Court ruling in the case of *Oliphant v. Suquamish Indian Tribe* to consider parallels in gendered state violence between post-Revolutionary Iran and the contemporary U.S. This 20th century federal judicial decision determines that tribal courts cannot exercise criminal jurisdiction over non-Indian U.S. citizens—and leaves countless Native American women unprotected from, and targeted by, non-Native sexual predators. While I employ Farhadi's film more generally as a means to read state violence against women and for possibilities of subversion of this violence, I seek specifically to consider the following questions: How does gender figure into the perpetual states of emergency in the U.S. and Iran? How is masculinity, and in the U.S. white masculinity, at stake? How do gender and sexuality become an ever-present “crisis”? How does the presence or absence of laws pertaining to gender in a state of emergency (such as laws that mark a woman's body as a site of corruption) impact the rights of women interpersonally and institutionally?

...the post-Revolutionary Islamic government established a system of modesty that aimed to make the modesty of Iranian women the hallmark of the new Shiite nation.²⁶²

The Salesman depicts a period in the lives of Rana and Emad, a young middle class couple living in contemporary Tehran. At the start of the film, the couple flees their home because of nearby unexplained construction that causes their building to fall apart. They relocate to a colleague's apartment, and one night while home alone, Rana hears the

²⁶² Mottahedeh, *Displaced Allegories*, 2.

building buzzer and unknowingly unlocks the apartment door to an intruder, thinking it is her husband. While alone in the shower, she is violently attacked. We witness neither the attacker nor the assault. Instead, in the following scene, we see Emad arrive home to bloodstains on the stairwell and in the empty apartment. He later finds his wife in an emergency room where she is visibly traumatized and receiving medical care. There, the neighbors recount that they discovered Rana's body after hearing screams, and only then disclose that the previous tenant was a prostitute who accepted clients in the apartment where the couple now lives. From this point, the film follows the couple's unraveling relationship and increasingly tenuous mental and emotional health after the attack, culminating in Emad discovering the identity of the attacker and confronting him. As the film progresses, it becomes increasingly clear that the assault Rana survived was rape. However, it should be noted that the ambiguity around this fact is generative. We *do not* see the attack because we *cannot* see the attack; if all non-familial touching is prohibited in cinema between men and women, and women in cinema must be veiled and donning proper hijab at all times, by what means can a director convey a man sexually assaulting a woman? While Farhadi conveys this plot point through more implicit and coded means, he refrains from articulating explicitly that Rana was raped. He could, like filmmaker Tahmineh Milani, utilize character dialogue as a site of direct communication with the audience, and allow one of the characters to state that Rana was sexually assaulted. I propose that the more poetic, open and ambiguous depiction of this element of the narrative not only strengthens the film as a site of poetic resistance, but also draws attention to that which perhaps cannot be explicitly said or depicted in the context of

rigorous surveillance and censorship. In this way, Farhadi employs his own ellipsis, gesturing to the violences that proliferate throughout the society, but which are excluded from the state's deified narrative of state-preservation. I propose that the ellipsis deployed in the poster promoting proper hijab is more constrained given the explicitness of the associated imagery; however, Farhadi's use of the ellipsis is more aporetic, more resistant to the idea and practice of categorization, coercion and constraint. Additionally, given the censorship in the Islamic Republic—a political and social reality commented on in relation to the staging of the play in the film—this implicit communication of sexual violence is also an act of creative survival in an annihilating political and social environment. That is to say, directly acknowledging the rape in the film could ban the film's production, dissemination or screening possibilities in Iran.

Near the film's end, after trapping his wife's rapist in their abandoned former apartment, Emad demands to know why this seemingly elderly and fragile man has assaulted his wife. The man, meekly casting down his eyes, confesses, "I was tempted." In the context of post-Revolutionary Iran, such a claim constitutes an act of violence, in that this claim coerces a violent and gendered narrative that is securely endorsed—ideologically and legally—by the state. Given the gendered institutional, legal and rhetorical dynamics of power in Iran, this claim strategically wields the weapon of public shame to intimidate and obfuscate.



Figure 8

In framing his crime with the expression “*Vas-vase shodam*,” which translates to “I was tempted,” the attacker deploys the Iranian state’s rhetoric that designates women as a site of corruption; in other words, he locates the catalyst for his violence against the body of a woman in the body of that same woman. In this way, the original violence lies in the woman’s temptation that assaults the man, rather than the man who violently assaults the woman’s body with his own. This rhetorical shield is crucial to the Islamic nation-building narrative in which “heterosexual desire [is] borne in the female body.”²⁶³ For example, at one point, we learn that the attacker visited the prostitute frequently enough to become familiar with and purchase a tricycle for her young son. Importantly, this detail—an elderly, married father repeatedly soliciting sex from a prostitute—can survive post-Revolutionary Iranian censors because of the narrative power of a man claiming, “I was tempted.” In other words, the culprit, the homewrecker, the threat, is the one who

²⁶³ Ibid., 9.

embodies and wields the temptation; the corruption, and thus the assault, through impiety, immodesty, and impurity, is situated in the woman. Naficy observes that in the Islamic state narrative and its corresponding laws, “men are considered to be weaklings when encountering women's powerful sexual allure, for their gaze on immodest women has an immediate deleterious impact on the men.”²⁶⁴ The fact that the attacker is so deeply humanized in the film through his humility, his family’s love and concern for him, his emotional vulnerability, his physical weakness and his investment in his reputation; that the prostitute is never physically present in the film, never speaks for herself and has no name; and, that the Islamic state’s censors did not force the director to alter scenes depicting the old man as one of the prostitute’s clients, all reinforce the dominant male hetero narrative of woman as threat. In Figures 9-11, the attacker offers repeated emotional appeals that serve to humanize him to the family and to the viewer. In Figures 10-12, the old man’s familial relationships are foregrounded, as he is represented as a father concerned for both his children’s wellbeing and his long-term relationship with his devoted wife. In Figure 12, we witness his wife’s concern and love for her husband, who she believes has fallen ill as a result of strenuous physical labor in his characteristic desire to support his family. In Figure 13, we witness the old man growing increasingly weak and vulnerable as he sits weeping alone. Figure 14, from the concluding portion of the film, conveys the attacker’s frailty as he is carried, much like an injured victim or a sleeping child, on his son-in-law’s back.

²⁶⁴ Naficy, 106.

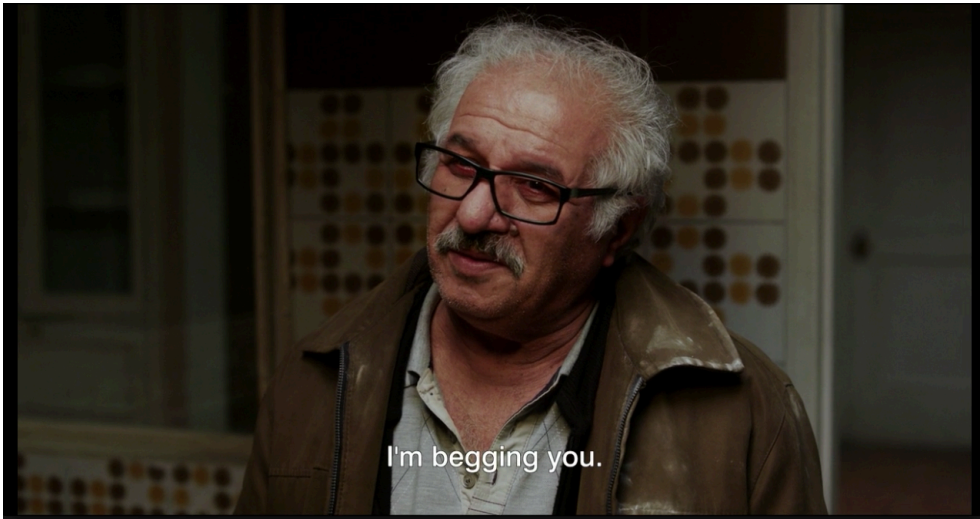


Figure 9



Figure 10

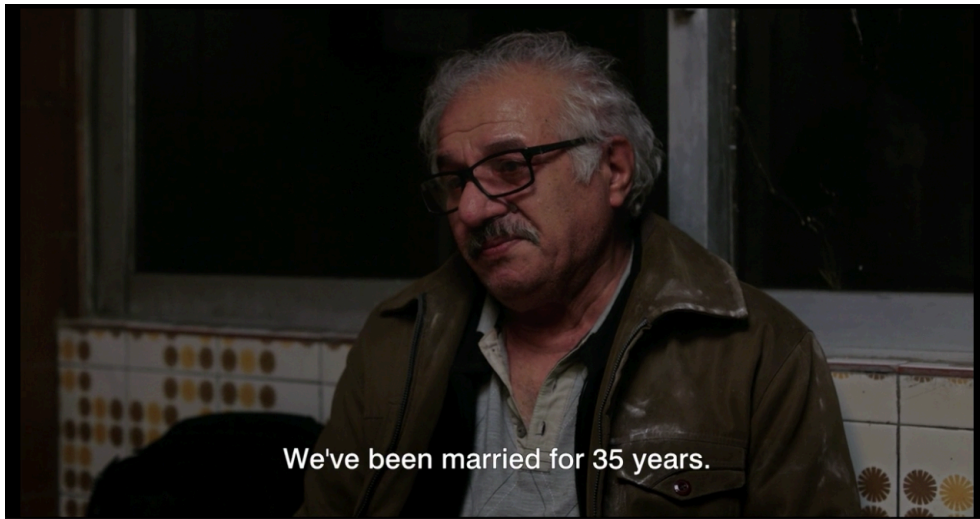


Figure 11



Figure 12



Figure 13



Figure 14

While I propose that Farhadi's film offers a disruption to and discernment of gendered state violence in Iran, the film's sustained humanization of, and apparent compassion for, the rapist should be noted as a perpetuation of this very violence. In the post-

Revolutionary Iranian state-enforced narrative, in most dynamics between men and women, men are not at fault—they are under siege by the overpoweringly corrupting nature of women. The prostitute was, after all, a prostitute—flaunting her seduction; causing public shame and discomfort for her neighbors; and tempting men who are devoted husbands, caring fathers, and honest providers who seek decent husbands for their children and who are invested in their families’ reputations. In the film, the attacker’s admission to being tempted shifts attention from his agency as the attacker to his inherent vulnerability as man: one who is susceptible to the defiling power of temptation embodied by women.

**The Islamic influence on Iranian culture
has resulted in an honor-shame system
that frequently blames rape victims—
thereby ensuring survivors stay quiet
even with their loved ones...**²⁶⁵

The gendered notion of temptation isn’t the only site of physical and representational violence against women in Iran; the cultural, political and legal operations of shame in the Islamic Republic harbor and perpetuate this dynamic as well. Rana’s shame-induced emotional and psychological withholding is conveyed through what she conceals from the other characters in the film, including her husband. From the audience’s perspective, there is no one in whom she confides. For example, she first tells Emad that she never saw the attacker’s face, only his hands and “then nothing”; but later,

²⁶⁵ Hassannia, Tina. “The Salesman Turns a Hyper-Masculine Iranian Film Genre on Its Head by Examining Unintended Self-Destruction.” *National Post*, 2 Feb. 2017, news.nationalpost.com/arts/movies/the-salesman-turns-a-hyper-masculine-iranian-film-genre-on-its-head-by-examining-unintended-self-destruction.

after an emotional and psychological breakdown during a live theater performance, Rana tells Emad that the catalyst for her breakdown was the look in an audience member's eyes that resembled the look in the eyes of her attacker. This disclosure gestures to a much larger withholding that embodies a correspondingly large potential shame. Her trauma following the attack is evident through her insomnia, fear of public humiliation, flashbacks, emotional and psychological anguish, marital discord, and the disruption of her work. And yet, Rana feels such prospective shame at the public disclosure of her rape that she repeatedly refuses to go to the police, and ultimately her husband washes from the stairwell the attacker's blood, which could have served as crucial evidence for police to identify him. Rana is not the only character beholden to the authority of shame; her husband Emad, the attacker, and the neighbors all cultivate a fear of humiliation, immodesty and dishonor. For example, at one point after the attack, a neighbor tells Emad that such people as the attacker should be driven around the city and publicly shamed in the streets—a mode of punishment currently utilized by the post-Revolutionary Iranian state for accused criminals.



Figure 15

The command of shame in Iran is present in other instances as well: as seen in Figure 15, Rana is ashamed by the possibility that a male neighbor discovered her naked body after the attack, and so her husband withholds this information from her; after being alerted that the attacker's car is blocking another car in the garage, Rana is so unwilling to publicly convey signs of her trauma to neighbors that she elects to physically enter the attacker's car and drive it herself, despite the visible anguish this proximity causes her; Emad confesses he wants to grab the attacker's collar and humiliate him at work—not pummel him or drag him to the police station—but to enact the violence of public shame; and, near the film's end, the attacker nearly dies from the potential shame of being forced to confess his crime to his family.

The ultimate revenge for Emad—not for his wife because his insistence overrides his wife's wishes—is to humiliate the attacker in front of his family. This is the justice he envisions for himself. When the attacker's family arrives, Rana, who has survived the

attack, threatens Emad that if he tells the man's family anything, then it is over between them. Thus, the possibility of shame is proposed to be the greater violence. Ultimately, in order to not sacrifice his marriage, Emad does not reveal the man's secret to his family, but he enacts another deep humiliation; he summons the man privately into the room, hands him a bag of cash approximately equal to the amount of money the man left in Rana's bedroom, and then slaps the man across the face. This sends the already weakened and ill man into a state that the film implies may lead to his death.

Strategic rapists on whatever side in a military conflict seem to concur with *Newsweek* and the Pentagon that women present a national security risk simply by being women. The violation of women's bodies as a weapon of war makes sense only if nationhood and national identity are seen as fundamentally masculine and what some American theorists term "heterosexist."²⁶⁶

Examining a 1993 *Newsweek* magazine cover featuring the face of Bill Clinton, Marguerite Waller writes that in the image, "Americanness itself is strongly coded as male."²⁶⁷ In her analysis of "the violation of women's bodies as a weapon of war," Waller proposes that nationalism is male and thus women are perceived as posing a threat to national security.²⁶⁸ I offer that the perpetual state of emergency, in its perpetuation of a sense of crisis and subsequent militarization, fosters a war-like environment, such that attacks on women's bodies, domestically and abroad, fall under the government's

²⁶⁶ Waller, "Women, Not Wives," 160.

²⁶⁷ *Ibid.*, 154.

²⁶⁸ *Ibid.*, 160.

publicly declared practice of state preservation. As Waller observes, in the U.S., nationalism itself has a hetero male identity. And, pertinent to the implied crisis in a perpetual state of emergency, Angela Davis notes that a “climate of fear” engenders “an extremely masculinist form of nationalism.”²⁶⁹ In my use of the term nationalism, I refer to a masculinist and binary form of nationalism, what Katarzyna Marciniak calls a “phobic nationalism” that operates through “exclusionary practices of citizenship” and “righteous anger, which is often strategically evoked as a necessary emotion used in a battle to protect the nation.”²⁷⁰ I refer also to a nationalism which is utilized to summon founding mythologies in order to justify state violence both within and outside of national borders. Ultimately, the nationalism to which I refer is that which is used, often through enemy-designation, and diagnoses of state-determined corruption, to denounce and discredit resistance to, and criticism of, state violence, such that “the chances are that [a critic of state violence] will be judged before they are heard, and the argument will be lost in the welter of bruised national pride.”²⁷¹

Writing about Hillary Rodham Clinton, Waller notes that “the problem of woman” is “already coded as corrupt.”²⁷² Importantly, in her analysis of a photograph of Bill and Hillary Clinton, she observes that while women may pose a sense of “unpredictability,” “wrongness,” “danger,” and “illegitimate domination,” there exists an assurance that the threat of woman “can be overcome, mastered, contained;” all it would

²⁶⁹ Davis, *The Meaning of Freedom and Other Difficult Dialogues*, 72.

²⁷⁰ Marciniak “Pedagogy of Rage,” 122, 135.

²⁷¹ Arundhati Roy “Come September.” Other elaborations of nationalism as exclusion can be read in Angela Davis’ *The Meaning of Freedom and Other Difficult Dialogues*, 73, and Arundhati Roy’s *Capitalism: A Ghost Story*, 32.

²⁷² Waller, 157.

take for this threat to be diffused is for someone to be “man enough to take charge” to restore stability and the “right order of things.”²⁷³ In Iran, after the Islamic Revolution, Ayatollah Ruhollah Khomeini specifically indicted cinema, and the role of women in particular, as an instrument of Western corruption, asserting that the primary “site of contamination” is a woman’s body, and this contamination is a doorway that leads to other poisons such as imperialism and capitalism.²⁷⁴ Thus, Khomeini sought to “overcome” and “contain” this threat by “taking charge” of Iranian media. According to Mottahedeh, “by Khomeini’s logic...the impurities introduced into the media by the intervention of foreign forces stained national vision and hearing under the Pahlavi regime and linked the body of the nation to the world outside.”²⁷⁵ By acknowledging the physical senses of “the body of the nation” in this way, Mottahedeh offers a reading of the nation not only as male and heterosexual, but also as possessing a human body. Coupled with Waller’s assertion, if one reads the U.S. and Iranian nations as endowed with bodily senses, then these nations’ moral *and physical* security are susceptible to the perpetual threat of woman as a site of corruption. Additionally, if the nonfamilial heterosexual male gaze is ubiquitous and state-enforced, the nation itself becomes a spectator; thus, through its spectating—namely through its vision and hearing—the nation is assumed to have a body. In this way, women, and specifically women’s bodies, perpetually present a national security risk for the bodied nation. In the same way that individual women can tempt individual men, woman can tempt, and thus put at risk, nation-as-man.

²⁷³ Ibid., 153.

²⁷⁴ Mottahedeh, *Displaced Allegories*, 2.

²⁷⁵ Ibid., 1.

In *The Salesman*, Rana expresses a concern for her attacker's physical and emotional health that contrasts with Emad's harsh treatment of him. How does Rana's sympathy subvert, and how does it reinforce the Iranian gendered state narrative? How does her concern for her attacker fortify the state-declared domestic, subservient, and sacrificial role of women in earlier post-Revolutionary Iranian films, in particular in "sacred defense cinema"? What sacrifices does Rana make and what does this generate in the film? For example, despite being terrified to enter the bathroom without the presence of her husband after the attack, or to dare inhabit the vicinity of the shower where she was assaulted, Rana offers unflinchingly to help her friend's young son when he needs to use the restroom in their home. To tenderly support the young boy in a mundane task despite her intense personal trauma, Rana suppresses, withholds, and transcends with a magnanimity that simultaneously hearkens the decades-old film trope of the good Muslim woman and challenges the notion of woman as threat to the state. After the Revolution, modesty of women in cinema and society served as a symbol of the re-Islamicized and therefore purified Iran. This state-directed modesty was demanded through such measures as "sacred defense cinema" that promoted "the trope of the patiently suffering woman."²⁷⁶ Later, the concept of sacred defense extended to include projects that promoted the ideological aims of the Iran-Iraq war, without necessarily explicitly including direct references to the war or its aftermath.²⁷⁷ In the narrative of Iranian war cinema, in particular in its depiction of women, sacrifice was a means of transcendence. And like her willingness to make sacrifices for the young boy, Rana's

²⁷⁶ Rastegar, 124.

²⁷⁷ Ibid.

concern for her attacker can be read as satisfying the role of the sacrificial woman. For instance, upon hearing the old man plead and cry, Rana tells her husband to allow her attacker to leave in order to not force him to suffer the humiliation of confessing to his wife and daughter. Later, seeking to preserve both marriages—her own and her attacker’s—despite the barbarities and rejections enacted by both husbands, Rana says, “Emad, you’re taking revenge. Let him go.”



Figure 16



Figure 17

While I offer that one can read Rana's compassion for her attacker as sacrifice-as-transcendence, and therefore as a state-approved cinematic depiction of woman, I also propose that the role of men in the film can subvert the ideologies underlying sacred defense cinema. Despite his wife's protests, Emad's response to Rana's concern for her attacker is a curt "Don't interfere." He continues to deal with the perpetrator on his own terms, rather than the terms of the survivor (his wife). By allowing the men to take over the narrative—such that their egos, desires, violences and wounds dominate—Farhadi's film can also be read as a disruption of the logic that underlies the claim "I was tempted." One can read men as the threat to the state-sponsored narrative of the nation; the men are the ones who create and perpetuate crises—the old man attacks Rana, and Rana's husband selfishly pursues revenge for his own sense of masculine loss. By re-imagining and re-staging the state-sponsored trope of the sacrificial and modest woman promoted in Iranian war cinema in the 1980s, films like Farhadi's can disrupt the logic with which

women are labeled by the state as a perpetual site of corruption and thus as a threat to the nation.

Much as in his film *A Separation*, Farhadi's film style here is interpretively generative in its moral and narrative ambiguities; these ambiguities also provide creative and professional possibilities for Farhadi as a filmmaker in the Islamic Republic of Iran. The avoidance of direct declarations, whether in terms of moral condemnation or plot detail, allows for an evasion of accountability to state regulating forces. For example, after the attack, Emad discovers keys, a cell phone, cash, and a pair of men's socks in the apartment. The socks in particular serve as a creative transmission from the filmmaker, an implicit means of storytelling that serves to elude the unforgiving and fixed rubric of government censorship, while also preserving a poetic ambiguity in the narrative. The socks convey not only undressing, but also an eerie intimacy, a sense of over-familiarity with the space on behalf of the intruder. In addition to the disclosures and subversions enacted through moral and narrative ambiguity, there is subversion in the film's depiction of contemporary Iranian lawlessness. Post-Revolutionary Iran's absence of institutional accountability and reliable legal recourse for individual complaint is evidenced throughout the film: in the building that collapses and leaves the tenants homeless because of unexplained construction next door; the landlord who can't force the ex-tenant to remove her belongings and the ex-tenant who can't complain that all her possessions have been placed outside; the fact that nobody, including the neighbors, calls the police or files a report after a horrifically violent attack in their apartment building; that Emad discovers a set of keys in his apartment after the attack, and rather than calling the police,

tries to enter random cars until he finds the corresponding vehicle and drives it into his building's garage; and that Emad solicits one of his teenage students to ask his father, a retired traffic officer, to illegally trace the license plate of the attacker's car. Each instance discloses Iranian society's mistrust of Iranian law, thus undercutting the authority of that law, and in particular challenging the law's relationship to justice.

Is nationalism a crime against women?²⁷⁸

The Indian Civil Rights Act of 1968 determines that the maximum penalty tribal courts can administer is one year in jail and a \$5,000 fine, including for the crimes of rape and murder. Section 904 of Title IX of the 2013 Violence Against Women Act amends the Indian Civil Rights Act to allow Native American tribes the jurisdiction to try non-Native criminals in specific circumstances.²⁷⁹ However, the jurisdiction afforded to tribal courts over non-Indians still does not encompass sexual assault—including against children—between individuals who do not know one another, and in which a protection order was not already involved.²⁸⁰ In the circumstances not covered by the Violence Against Women Act, the 1978 Supreme Court decision of *Oliphant v. Suquamish Indian Tribe* takes precedence. I would like to examine this Supreme Court decision to consider the following questions: In what ways does the perceived role of women, and specifically Native women, as a site of corruption allow for such a juridically and legally codified decision? How are Native women violated both as Natives *and* as women, and how is this

²⁷⁸ Waller, 160.

²⁷⁹ "Maze of Injustice," 29, 63.

²⁸⁰ "Violence Against Women Act (VAWA) Reauthorization 2013."

violation intrinsic to the U.S. perpetual state of emergency?

While not all reported sexual assaults against Native women are perpetrated by non-Native men, most are. According to the U.S. Department of Justice, 86 percent of reported assaults against Native women are by non-Native men.²⁸¹ Profit-driven corporate projects, such as the construction of the Dakota Access Pipeline—protests against which garnered wide public attention before they were ultimately dominated by state militarization—that establish work camps for non-Native men to labor on and near tribal lands can greatly increase the rate of sexual assault against Native women by non-Native men, while in no way fortifying federal government protection of Native women. Additionally, mistrust of the U.S. federal government and state authority as a result of historically coercive and violent means of law enforcement leads to even less reporting of sexual violence by Native women.²⁸²

The role of sexual violence toward women is intrinsic to the founding of the U.S. nation. Historically, sexual violence has been used as a tool of conquest in the colonization of what is now the United States, and the settler-colonial violence in the establishment of the U.S. imposed patriarchal and misogynistic legal and social systems on Native communities, ultimately coercively altering gender roles in these communities over time.²⁸³ For example, Roxanne Dunbar-Ortiz notes that in California, “disruption of Indigenous social structures...and dire economic necessity forced many of the women into prostitution in goldfield camps, further wrecking what vestiges of family life

²⁸¹ “Maze of Injustice,” 4.

²⁸² *Ibid.*

²⁸³ *Ibid.*, 16.

remained in these matriarchal societies.”²⁸⁴ The Supreme Court’s *Oliphant* decision declares that “Indian tribal courts do not have inherent criminal jurisdiction to try and to punish non-Indians, and hence may not assume such jurisdiction unless specifically authorized to do so by Congress.”²⁸⁵ Thus, the federal government has the power to decide whether or not to prosecute non-Indians who commit crimes on tribal lands. A 2007 Amnesty International Report based on research carried out during 2005 and 2006, including interviews and case studies on the Standing Rock Sioux Reservation, notes that this Supreme Court decision led to non-Native men actively pursuing criminal activities, including sexual assault, on tribal lands—thus increasing sexual assault against Native women. U.S. Supreme Court Justice William Rehnquist’s 1978 opinion delivered in the *Oliphant* case gives some insight into the subjective causes for this Supreme Court decision. He writes:

The Suquamish Indian Tribe does not stand alone today in its assumption of criminal jurisdiction over non-Indians. Of the 127 reservation court systems that currently exercise criminal jurisdiction in the United States, 33 purport to extend that jurisdiction to non-Indians. Twelve other Indian tribes have enacted ordinances which would permit the assumption of criminal jurisdiction over non-Indians. Like the Suquamish these tribes claim authority to try non-Indians not on the basis of congressional statute or treaty provision but by reason of their retained national sovereignty. The effort by Indian tribal courts to exercise criminal jurisdiction over non-Indians, however, is a relatively new phenomenon. And where the effort has been made in the past, it has been held that the jurisdiction did not exist. Until the middle of this century, few Indian tribes maintained any semblance of a formal court system.²⁸⁶

²⁸⁴ Dunbar-Ortiz, 41.

²⁸⁵ *Oliphant v. Suquamish Indian Tribe*.

²⁸⁶ *Ibid.* Emphasis mine.

Rehnquist's use of the words "assumption," "purport" and "claim" serve to undermine the legitimacy of Indian tribal courts while also depicting Indian tribes as purposefully misrepresenting the scope of their jurisdiction. These words all convey assertions that are characterized by their lack of proof, and in using these terms, Rehnquist emphasizes not only this lack, but also the *need* for evidence of legitimacy. His point that Indian tribes lack "any semblance of a formal court system" is repeated later when he writes that "there was little reason to be concerned with assertions of tribal court jurisdiction over non-Indians because of the absence of formal tribal judicial systems."²⁸⁷ Rehnquist, in his assessment of tribal court systems, places the federal American court system in the position of what Walter Mignolo calls "the zero point" of observation—as the true, legitimate and standard model of justice; in other words, the norm against which other models are measured and considered deviant. Thus, the federal American court system does not require proof of its legitimacy, as it purports to be the norm of juridical procedure. The word "formal" conveys for Rehnquist a fixed meaning and is imbued with a sense of superiority. The notion of formality is bound to that which whiteness celebrates—namely, the mythology of objectivity and white Western notions of civilization and civility, thus allowing for an out-of-hand dismissal of tribal judicial systems as being informal and unsophisticated. Historically, *civilized* and *civil* have been utilized to describe white European and North American societies, whereas *uncivilized* and *uncivil* have historically been used to designate the cultures, values, beliefs, appearances and practices of non-white, non-Western societies. Importantly, civility—a

²⁸⁷ Ibid.

performance bound to the formality and sophistication Supreme Court Justice Rehnquist evokes, and which is purportedly valued in U.S. legal and juridical institutions—is often used to enact tremendous violence under the guise of courtesy, restraint, and politeness. For example, according to law scholar Robert Cover, the U.S. courtroom, and the criminal courtroom in particular, harbors a tense performance of civility:

The defendant's world is threatened. But he sits, usually quietly, as if engaged in a civil discourse. If convicted, the defendant customarily walks—escorted—to prolonged confinement, usually without significant disturbance to the civil appearance of the event. It is, of course, grotesque to assume that the civil façade is “voluntary” except in the sense that it represents the defendant's autonomous recognition of the overwhelming array of violence ranged against him, and of the hopelessness of resistance or outcry.²⁸⁸

The defendant faces the potential of tremendous, legally codified, and increasing violence on behalf of the court if she deviates from, and/or draws attention to the falseness of, this performance of civility. In the courtroom, civility is a “façade” amidst the everpresent “massive amounts of force” and “conditions of effective domination” guaranteed to the judge, who, according to Cover, has a “homicidal potential” in her interpretation of law.²⁸⁹

For whom is the possibility of civility denied from the start, even before the individual is demanded to convey it? The permanent exclusion of the uncivil is built into the binary of civil versus uncivil. As Ta-Nehisi Coates writes, the exclusions built into the determination and enforcement of civility cannot “be altered through individual grit and exceptionally good behavior” on the part of those who are deemed to be uncivil

²⁸⁸ Cover, 1607.

²⁸⁹ Ibid., 1619, 1623.

and/or uncivilized.²⁹⁰ Their exclusion has been built into the system of determining civility—their un-civility is required for civility to exist. The language of civility that Rehnquist deploys to undermine the legitimacy of tribal courts binds itself to reason and adopts its guise of superiority, in Western male culture, politics and discourse, by claiming the characteristics of the rational, level-headed, and neutral. And, importantly, an appeal to reason, for Rehnquist, evokes an ideology that is legible to, and which privileges, whiteness and in particular white patriarchy. Rehnquist's privileging of formality, sophistication and reason reinforces a landscape of gendered and racialized binaries that include reason versus emotion and reason versus instinct. Thus, a call for reason is a call for masculinity and male-ness—and white male-ness in particular. The language of civility, such as that which Rehnquist employs, is not used to disrupt or critique the state; it is employed in the direction of the establishment of the state and its violences—it is a mode of compliance with the state, and thus determines who is deemed threatening and corrupting. Rehnquist points out that while “some Indian tribal court systems have become increasingly sophisticated and resemble in many respects their state counterparts,” they remain insufficient; for Rehnquist, Indian courts, no matter how successfully they emulate U.S. courts, will never be sufficiently formal, sophisticated, legitimate, civilized or civil to be permitted to exercise jurisdiction over non-Indians.²⁹¹ According to Rehnquist, whatever formal is, it is what tribal beliefs and practices are not; formality is legible to whiteness and maleness, and fits into Rehnquist's frame of discernment, interpretation and knowledge formation and validation. To legitimize tribal

²⁹⁰ Coates, “The Case for Reparations.”

²⁹¹ *Oliphant v. Suquamish Indian Tribe*.

judicial systems as being equal to the U.S. national court system would be to pose a threat to the legitimacy and security of U.S. judicial and legal institutions. For Rehnquist, the superiority of the formal and sophisticated legal and juridical systems lies, in part, in its relation to the inferiority of that which is considered unsophisticated, informal and excessive. Civility deems deviant that which is intuitive and not “rational,” and thus is often wielded against women, who are particularly surveilled around affects and effects that have not already been legitimated as male. In civility’s paradigm, affect—which is read as performativity and excess—tends to be associated with women and with non-whiteness, and reason—read as intellect and objectivity—is ascribed to men. Thus, in attributing to Native Americans’ legal and judicial practices and institutions the inferior qualities against which his own civility, rationality and formality are measured, Rehnquist also feminizes Native Americans, regardless of gender. Here, native-ness—namely, non-whiteness—and woman-ness, are sites of potential corruption in the body of the contemporary U.S. In order to preserve the state and the superiority of the idea of the U.S., the scope of power and the validity of non-Native courts must be regulated by the (male) U.S. government.

Dunbar-Ortiz writes that “European institutions and the worldview of conquest and colonialism had formed several centuries before [Europeans crossing the Atlantic].”²⁹² She observes that European Christian conquests were profit-driven, militaristic, bound to colonization, and fueled by a narrative of internal enemies that

²⁹² Dunbar-Ortiz, 32.

featured corrupt women that posed a threat to the purity of the state.²⁹³ I propose that reading this history is imperative to reading the perpetual state of emergency in the U.S., in particular in relation to the manners in which hierarchies of gender and race impact Native American women. The hierarchies at play cannot be understood in isolation; they take on new meaning in relation to one another, such that in the context of a state of emergency the experience of Native American women is shaped by how their woman-ness and their Native-ness are simultaneously perceived by the state (in addition to other factors such as class, sexual orientation, (dis)ability, etc.). The interlocked nature of systemic hierarchies and modes of violence have been written about extensively by such philosophers and scholars as bell hooks, Patricia Hill Collins, Kimberlé Williams Crenshaw, and the Combahee River Collective. As Collins writes, regarding “interlocking systems of oppression,” reading the world through a “both/and conceptual lens” can “create new possibilities.”²⁹⁴ She proposes that “additive approaches to oppression” are “firmly rooted in the either/or dichotomous thinking of Eurocentric, masculinist thought.”²⁹⁵ In additive models of oppression, one oppression is centralized and privileged over others—and thus is also falsely extricated from its interlocking relationships and impact. By framing her analysis around “relations of domination,” Collins focuses on how systems of oppression interconnect, rather than “merely describing the similarities and differences.”²⁹⁶ In “Mapping the Margins,” Kimberlé Crenshaw observes that “minority women suffer from the effects of multiple

²⁹³ Ibid., 33.

²⁹⁴ Collins, 221.

²⁹⁵ Ibid.

²⁹⁶ Ibid., 222.

subordination, coupled with institutional expectations based on inappropriate nonintersectional contexts.”²⁹⁷ Not reading power and violence intersectionally can result in hierarchical power relations being strengthened because “patterns of subordination intersect.”²⁹⁸ Crenshaw’s reading is crucial to the practice of resistance to such dynamics: systems of domination are intersectional, and the interests of those seeking to challenge such operations of power are also intersectional. Importantly, Crenshaw emphasizes that intersectionality is a “provisional concept” rather than a “totalizing theory of identity.” She recognizes that such a concept engages with such hierarchies as race, gender, sexual orientation, age and class as “essentially separate categories” which can reinforce the very essentialization it seeks to dismantle. However, by locating her reading at the sites of intersection, Crenshaw aims to “disrupt the tendencies to see race and gender as exclusive or separable.”²⁹⁹

Crenshaw also specifically considers the intersectional nature of plural violence enacted habitually against women, writing that women’s lives are shaped by an “almost routine violence.”³⁰⁰ Crenshaw reflects on the intersectional nature of oppression for women of color, in particular for those who suffer physical assault and seek refuge in shelters. For example, when describing the experience a Latina woman and sexual assault survivor who was not sufficiently English-language proficient and was thereby turned away from a shelter, Crenshaw addresses how intersectional violence includes a violence of the imagination—those that seek resources must adhere to hierarchically-determined representations in the mind of the resource-provider. Failures of the imagination, including the inability to recognize the limits of one’s own imagination, correlate directly to exclusionary policies that withhold critical resources for marginalized and targeted

²⁹⁷ Crenshaw, 1251.

²⁹⁸ *Ibid.*, 1249, 1282.

²⁹⁹ *Ibid.*, 1244.

³⁰⁰ *Ibid.*, 1241.

communities that do not adhere to predetermined parameters of who needs support.³⁰¹ The plural, personal and institutional “patterns of subordination” and the “both physically and culturally marginalized” position women of color occupy requires that shelters address women’s needs equitably rather than equally. In other words, shelters “must also confront the other multilayered and routinized forms of domination that often converge in these women’s lives” such that the shelters’ time and resources are “spent handling problems other than” the physical assault the women have endured.³⁰² Thus, the decision to report violence, including domestic violence, is rife with the multiple violences to which women of color are subjected.

For Native women, one consequence of being read through the lens of their Native-ness is the assumption of alcohol abuse and their subsequent marginalization and compounded victimization by the state. Amnesty International notes that Native women who are sexually assaulted are frequently treated as “a drunk Native woman first and a rape victim second” by the very resources established to respond to such violences.³⁰³ Often, the assumption that Native women are intoxicated can lead them to be turned away from shelters and other life-saving resources, which in turn leads to far less reporting of sexual assaults, creating a breeding ground for sexual predators.”³⁰⁴ As with the role of men in Farhadi’s film, the role of men in contemporary U.S. society offers insight into the role of women in the perpetual state of emergency. In the case of *Oliphant*, disregard for the repeated violation of women and thus the lack of accountability for violent crimes by men against women serves to elucidate the role of

³⁰¹ Ibid., 1263.

³⁰² Ibid., 1245-1250.

³⁰³ “Maze of Injustice,” 2.

³⁰⁴ Ibid.

women in the context of the perpetual state of emergency. In the U.S., the protection of nation-as-man—in particular the preservation of its legal and juridical institutions against the corruption of Indian institutions and practices—trumps the preservation of the dignity, safety, and human rights of Native women. The systemic violation of women’s bodies, amplified by deliberately crafted federal laws that do not hold attackers accountable and furthermore exacerbate the rate of violence, does not constitute for the state a worthy crisis in the perpetual state of emergency. Waller writes:

...the idea of nation and the component of personal identity that is derived from identification with such a nation are mapped onto a concept of gender that opposes male to female and insists that the former be the dominant, positive term, the latter a subordinate, negative term, in this binary opposition. Analogously, one’s own nation is male, good, right, true, while the nations in relation to which it defines itself as such are, or must be proved to be, negative, devious, dangerous, appetitive, illegitimate, feminine.³⁰⁵

In this way, Native-ness and woman-ness imply opposition to American-ness and thus a threatening and adversarial quality. Again, using this logic, for the state, Native American Nations are a nation “in relation to which it defines itself” and are thus “illegitimate” and “feminine.” In the narrative of the U.S. perpetual state of emergency, while the safety of demographically-specific women and girls may be rhetorically invoked for increased state militarization, ultimately it is the state that must be preserved, and the state is male. And the corrupting cultural, legal and juridical practices of Natives are feminized and thereby determined by the state to possess the contaminating character of women. Much like the male body of the Iranian nation, the male body of the U.S. nation is subject to the perpetual threat of Native women: the potential legal and judicial legitimacy of their

³⁰⁵ Waller, 160.

native-ness act as a source of corruption to American legal and judicial institutions and to America's underlying zero point claims to objective superiority; and, their femininity and womanhood pose a threat to the masculinity of the nation and the masculinist nationalism it seeks to evoke in its exclusionary calls to protect the state.

In a perpetual state of emergency, nationalism is often evoked through state-led exaltations of the nation's origin myth. The origin myth is a particularly relevant site of examination because it can publicly reframe the underlying ideology of a nation's founding. In the U.S. and post-Revolutionary Iran, state-sanctioned origin myths reinforce the crises in each respective state of emergency. Both American and post-Revolutionary Iranian founding narratives record and perpetuate states of emergency, and thereby facilitate legally codified state violence as an extension of the values of the origin myth. Post-Revolutionary Iran's origin myth is imbued with tales of individual sacrifice for the greater good of Shi'ite Islam, the Revolution, and the Islamic Republic, which are perpetually under attack by enemies. America's origin narrative, however, involves themes of progress, individual equality, and rebellion against empire, and like all modern nation-states, it encompasses messages of patriotism and loyalty to the state.³⁰⁶ Dunbar-Ortiz makes the point that the founding of the U.S. is based on an ideology of white supremacy and specifically identifies the American Revolution as "the intentional founding of a white republic."³⁰⁷ However, the role of white supremacy and the preservation of white ideology do not explicitly figure into America's origin myth. Dunbar-Ortiz draws attention to the untenable logic of the U.S. origin myth and its

³⁰⁶ Ibid., 47.

³⁰⁷ Ibid., 120.

development into the contemporary identity of the U.S., proposing that in the interest of “reconciling empire and liberty,” the dominant refrain of the U.S. as a “land of immigrants” effectively excises the history of genocide and displacement of Native Americans, the mass abduction and enslavement of Africans and later African Americans, and, I would add, the stories of countless refugees who come to the U.S. as a direct result of U.S. political, economic and military intervention in their home countries—all while recasting the first white Europeans in the U.S. as immigrants rather than settler-colonialists.³⁰⁸ Thus, Dunbar-Ortiz encourages scrutiny of the U.S. origin myth in order to acknowledge the many ways violence was imparted, sanctioned and institutionalized through the nation’s founding. Drawing on her call for a more honest confrontation with the U.S. origin story, I propose that a reimagined relation to contemporary law involves scrutiny of the formation of a nation and its institutions. A critical engagement with origin narratives is crucial because these accounts shape the culture, national identity, values and institutions of a country.

What does reading woman as a national security threat in a perpetual state of emergency generate, for both Iran and the U.S.? These nations are not simply patriarchal; rather, their patriarchy is embedded in their founding as nations—including their legal and juridical institutions. Moreover, women pose a threat to the security of the nation-as-man. These circumstances are compounded by the manners in which gender hierarchies and their corresponding violences occur simultaneously with other hierarchies such as race, ethnicity, sexuality and class.

³⁰⁸ Dunbar-Ortiz, 106.

CHAPTER 5

Otherwise Law

How can law, and our relation to law, account for the incommensurable and aporetic nature of justice? In this chapter, I aim to explore the concept of what I call radical openness, while offering two films by Trinh T. Minh-ha, *Surname Viet Given Name Nam* and *The Fourth Dimension*, as potential sites of radical openness, in order to consider how such a concept can be practiced in our relations to, and encounters with, the law. I also offer a reading of Angela Davis' proposal to abolish prisons as a radically open trajectory of relation to violent legal, judicial and penal systems. In this chapter, I introduce things that may appear incomparable or incongruous—two films, and one African American textual critique to the U.S. industrial prison complex. How can these things be talked about simultaneously? I am considering ways of thinking themselves. These films, in the ways they are made, are gesturing toward and trying to perform other possibilities. And Davis, through an intellectual political critique of prisons, offers other possibilities of thinking that are bound to social, political and institutional action.

Through these films and texts, I seek to examine how the practice of radical openness can acknowledge the aporia inherent to justice, and thus allow for “otherwise than” possibilities in law and legal relations. My use of the term “radical openness” draws from Édouard Glissant's “Relation,” Trinh T. Minh-ha's “elsewhere(-within-here)”, and Nahum Chandler's “otherwise,” on which I will elaborate further in this

chapter.³⁰⁹ Relation, and I propose, radical openness, is, as Glissant observes, “directly in contact with everything possible,” its possibility not being determined by intelligibility.³¹⁰ This contact with everything possible allows for a receptivity to the possibility of that which is unanticipated and un-experienced; this feature of inexhaustible interrelatedness gestures to our interdependence and corresponding unfinished ethical responsibility. As Avital Ronell writes, the “responsible being is one who thinks they’ve never been responsible enough.”³¹¹ Thus, there is no finality to responsibility; no successful arrival at, and thus severance from, a continued responsibility.

Through this chapter, I consider the following questions: How can a concept and practice of radical openness inform a critical re-imagining of legal, judicial, and penal systems, as well as our relation to them? How can such a mode of theory and practice disclose and possibly subvert the workings of a perpetual state of emergency?

**For, there is no space really untouched by
the vicissitudes of history, and
emancipatory projects never begin nor
end...³¹²**

Not aspiring to capture or contain, an anti-possession, radical openness is never finished, never completely having arrived. It rejects the mastery of “territorialized knowledge,” which Trinh T. Minh-ha observes, “secures for the speaker a position of mastery; I am in the midst of a knowing, acquiring, deploying world—I appropriate, own,

³⁰⁹ Trinh, *When the Moon Waxes Red*, 15.

³¹⁰ Glissant, 32.

³¹¹ *Examined Life*.

³¹² Trinh, *When the Moon Waxes Red*, 8.

and demarcate my sovereign territory as I Advance—while the ‘other’ remains in the sphere of acquisition.”³¹³ What I refer to as “radical openness” involves a vocabulary of opacity that resists such acquisition; a recognition of our inheritances—that which we receive and that which we pass on; an affirmation of our incalculable responsibility toward one another; and a perpetual reassessment of how we may benefit at any given moment from the multiple always-operating hierarchies. It can be difficult to discern one’s own privilege in any number of hierarchies, and even more so to continually reassess and renounce these privileges in any aspiration toward radical openness. Thus, one’s practices toward radical openness cannot be formulaic; they must change and acknowledge their own interests.

In *The Telephone Book*, Avital Ronell draws out the ways in which “I” am already related to others, involved in numerous unfinished relations to, among others, the dead. In Ronell’s work, mourning—understood as brokering a finality in relation to loss—can only be coercive: a desire to get over it and leave it behind. However, that which we want to do away with will keep returning, disrupting forms of communication and understanding, such that “contact is never constant nor is the break clean.”³¹⁴ This permeability, this perpetual rupture, is reflective of the unfinished nature of *aporia*, and of justice. In “Support our Tropes” Ronell asserts that finitude is a “Western compulsion,” and that our task as thinkers is the “infinite unfinished.”³¹⁵ Thus, absolute

³¹³ Ibid., 12.

³¹⁴ Ronell, *Telephone Book*, 20.

³¹⁵ Ronell, “Support Our Tropes,” 52-53.

closure is an illusion; there is always an unfinished and returning trace, a remnant that haunts our relations—to one another, to ourselves, to the law.

Much like Ronell, Glissant acknowledges our infinite, unfinished relations when he writes that in Relation, “[e]ach of its parts patterns activity implicated in the activity of every other.”³¹⁶ This view of relationality leaves us—whoever we are—always implicated in the lives of, and related to, one another. Accepting such a simultaneously wide and intimate scope of relationality challenges existing categorical practices. One way to emphasize this relationality is to disclose elements deemed unvaluable or peripheral to the dominant system: our concealed or criminalized relational threads. Glissant utilizes Deleuze and Guattari’s concept of the rhizome as both form and possibility, through which he perceives an anticipation of, and an openness to, change. Importantly, the rhizome has no center or privileged position; much like how Mignolo posits the word *option* over the term *alternative*, because he states that the latter sets ideas against a privileged main idea and therefore promotes hierarchical structures.³¹⁷ The rhizome defies permanence, hierarchies and totalitarianism, insisting on its own radical openness; through it, “each and every identity is extended through a relationship with the Other.”³¹⁸ This sense of mutual inheritance and responsibility can allow for a more radical interpretation of the function and practice of law. Glissant argues that people, cultures, patterns, experiences, etc., exist entangled in one another, and we disentangle them, not because they need to be disentangled, but to better read and understand them;

³¹⁶ Glissant, 33.

³¹⁷ Mignolo, *the Darker Side of Western Modernity*, xxviii.

³¹⁸ *Ibid.*, 11.

we alter them in order to contain and possess them in our understanding, a coerced revision for the sake of grasping. Like Glissant's notion of opacity, in *The Telephone Book*, Ronell proposes the concept of "lunar" clarity as a more permeable and inclusive form of reading and understanding. Ronell notes that this form of clarity is neither sudden nor totalizing. It is a "phantomization" that includes our mutual haunts, taking into account that which is excluded, criminalized and hidden. Lunar clarity acknowledges that any effort to understand oneself or the other must include an acknowledgement of the limits of the possibility of understanding. Allegorical and lunar models of representation and understanding draw attention to that which closed, hierarchical systems of representation strive to conceal or dismiss. A radically open practice embodies openness to the inconvenient, uncomfortable, oppressed, and unimagined to challenge institutionalized systems of privileging one method over another. And what are the possibilities for understanding that do not possess or contain? Perhaps an understanding and knowledge that is aware of its own limits—and through those limits reads the possibility of an ever-present otherwise rooted in generosity and an acceptance of our inextricable inheritances, and thus our inextricable responsibility to one another.

**We must act as if we were responsible.
For, we will, always, be responsible.³¹⁹**

In *Toward an African Future*, Nahum D. Chandler approaches the concept of limit as possibility, using the term "atopic" to describe an "otherwise-than-proper-name

³¹⁹ Chandler, *X*, 2.

of the passage beyond – at the limit of world.”³²⁰ Returning to W.E.B. Du Bois’s oft-cited phrase, “the problem of the color line,” Chandler observes that Du Bois’s thinking was more global-historical than those who read and cite his work generally know or to which they give credit. By means of an aspiration for ethical discourse, throughout the text he draws attention to, and reconfigures, language to stage a rhetorical intervention. Seeking to embody an ongoing practice of otherwise than and to engage with the world ethically does not entail striving for closure, comfort or good feeling; instead, such a practice is bound to a sense of mutual, unfinished responsibility, and a daily practice of the idea that, as Audre Lorde observes, “none of us escapes the brutalization of the other.”³²¹ In *Frames of War*, Judith Butler asserts that we are all precarious and thus exposed to and dependent upon those whom we know, barely know, or have never met. She writes that precariousness “imposes certain kinds of ethical obligations on and among the living.”³²² We are therefore interrelated and interdependent, a fact which in turn entails ethical responsibility, because “where a life stands no chance of flourishing, there one must attend to ameliorating the negative conditions of life.”³²³ Focusing on the conditions that makes sustaining life possible is particularly important for social responsibility and critique in the context of war, and analogously, I would add, in a state of emergency, as war denies our “shared precariousness.”³²⁴ The grim and beautiful possibilities of our interdependence and interrelatedness simultaneously establish “the possibility of being

³²⁰ Chandler, *Toward an African Future*, 14.

³²¹ Lorde, 214.

³²² Butler, *Frames of War*, 22.

³²³ *Ibid.*, 23.

³²⁴ *Ibid.*, 35, 43.

subjugated and exploited” and “the possibility of being relieved of suffering, of knowing justice and even love.”³²⁵ I propose that crucial to re-imagining our relation to law and state violence is an “understanding of the possibilities of one's own violent actions in relation to those lives to which one is bound, including those whom one never chose and never knew.”³²⁶ Thus in order to challenge legal state violence—including its condemning underlying ideologies, its coerced normativity, and its feigned objectivity and mastery—we must conceptualize and practice radical openness. Possibilities for such an ethical rhetoric are elucidated by Patricia Hill Collins when she offers an “alternative epistemology” in which inquiry “always has an ethical claim.” In such an epistemology, “neither emotion nor ethics is subordinated to reason. Instead, emotion, ethics, and reason are used as interconnected, essential components in assessing knowledge claims.”³²⁷ Thus, the mythology of objectivity can be dispensed with; and in relation to existing legal and juridical institutions, an alternative epistemology can lead to a reconfiguring of the premises on which these systems are based, challenging their purported relations to justice.

Chandler offers examples of that to which I am referring as “ethical rhetoric” through a careful extrication of the terms “cheap labor” and “labor power”—at one point describing the latter as “the abstract potentiality of a laborer to labor”—which takes into account an unquantifiable and incommensurable otherwise.³²⁸

Again, with reference to economic form, that is to say, cheap labour can

³²⁵ Ibid., 61.

³²⁶ Ibid., 179.

³²⁷ Collins, 266.

³²⁸ Chandler, *Toward an African Future*, 86.

only be understood as cheap according to a premise that would understand the domain of exploitation as beyond one's own – of self, of institution, of nation, of world. Otherwise, exploitation – like unsustainable practices in general – are the most costly of endeavors. For, they will, in the end, bring about the terminal end, absolute ruin.

...labour power – or the always potential capacities of the actual or possible practical activity of those who may labour – understood in my theoretically desedimentative reading as precisely not susceptible to determinate quantification, or such determination is possible only according to the presumptive limits of a concept of capital as the horizon for theorization, and cannot be general or include the yet impossible possible forms of the practice of the human, and so such a determinate sense of the concept should not be understood as general, as such.³²⁹

By using the term “cheap labor,” and specifically by employing the word cheap in this context, one conceals the costliness of exploitation; such labor is not sustainable and through exhaustion can lead to a “terminal end.” The term “labor power,” however, is “not susceptible to determinate quantification” in that it includes “always potential capacities.” By holding language accountable in this way—and in particular a language which is normalized and commonly used—Chandler prioritizes the significance of using language with an acknowledgement of history—the history of human encounters and the ways through which these encounters are theorized, articulated and chronicled. Again, later, deliberately using language that draws attention to history, Chandler reframes the expressions “the problem of color” and “the problem of race”—at one point referring to race as “historical difference”—in order to disclose histories which are deliberately concealed and historiographies which are penalized in discourse around race and state violence in the U.S.³³⁰ Additionally, these examples affirm the “surreptitious forms of possibility always beyond contemporaneous calculation” of human life, including the

³²⁹ Ibid., 78-79.

³³⁰ Ibid., 38.

institutions—legal and otherwise—through which they operate.³³¹ Thus, given the condemning and self-serving violences of the U.S. and Iran’s perpetual states of emergency and their corresponding legal, juridical and penal institutions—sites of explicit militarization, discrimination and violence—and the languages they employ and through which they normalize their practices, a radical re-imagining of language is required to begin ethically addressing the perpetual otherwise of human existence.

Chandler considers the coercions of the “categorical” as a “claim of a possibility of a distinction” that assumes a complete extrication of one thing from another.³³² The use of the word *claim* is generative in that it discloses agency, narrative, and benefit on behalf of the party that imposes the categorical. The term *distinction* implies not only perceived difference, but also value-difference, such that the categorical is also hierarchical. Where as *otherwise* is animated and uncontainable, whereas it surpasses limits of understanding and possession, *categorical* is, in essence, a practical fiction designed to contain, quantify, monetize and oppress. In line with his aspiration to read possibility through limits, Chandler uses this notion to consider the radical possibilities that “categorical forms of proscription” may entail:

At its core, the “problem” in this formulation refers to the promulgation of *categorical* forms of proscription, no matter the guise or terms under which such is carried out (the religious, the economic, the “racial,” terms of “sex,” sexual difference, gender, nationality, citizenship, etc.). And such proscription would entail something other and more than its apparitional modes of exclusion. In fact, it names the mode of constitution of the social and historical forms of order that are at stake in general. Yet, too, the term “color” bespeaks not only problem but also possibility—the prospect of new forms and ways for groups of humans to attain or create

³³¹ Ibid., 81.

³³² Ibid., 62.

full realization of historical capacity, or even to open the paths toward the possibility of a horizon of unlimited generation and generosity. Underneath its form(s), matters of originary irruption—the most fundamental terms of possibility—are in radical question.³³³

In his reading of Du Bois, Chandler points to the latter's aspirations for the waning of the popularity of war, writing that Dubois envisioned "the categorical sense of friend and enemy becom[ing] difficult to sustain."³³⁴ This is a generative notion, in particular given the militarized categorization of these two terms in the contemporary U.S. and Iran; sustaining the mutual distinction of these two terms, and countless other binary proscriptions, is crucial to sustaining a perpetual state of emergency. Part of the task of challenging the various violences enacted through a perpetual state of emergency involves the erosion of a categorical distinction between friend and enemy. This resistance is possible, in part, through aspirations for ethical encounters, and through "a moral imagination" that is put into practice.³³⁵

In his consideration of otherwise, Chandler announces an incommensurable non-singularity, pointing out that "there will never have been only one."³³⁶ Similarly, as Ashon Crawley observes, otherwise "announces the fact of infinite alternatives to what *is*" and thus "is a resource that is never exhausted."³³⁷ As a practice, Chandler's notion of otherwise "inhabits a protocol that recognizes and insists upon the always previous responsibility of its impossible responsibility in the present to a possibility that remains

³³³ Ibid., 62.

³³⁴ Ibid., 69.

³³⁵ Ibid., 74.

³³⁶ Ibid., 23, 104.

³³⁷ Crawley, *Blackpentecostal Breath*, 2.

yet to come.”³³⁸ Depending on one’s beliefs and practices, this concept of a simultaneously incommensurate and significant responsibility may be linked to an unsettling, and excessive, temporality—thinking beyond oneself, and possibly not being present to perceive the results of one’s work. Chandler elucidates the possibility for a discourse that practices otherwise; a discourse that does not claim to embody the “ultimate passage beyond” a problem or question, but rather, which practices a “self-critical exposure of the limits of both its possibility and its becoming.”³³⁹ To practice otherwise involves unsettling the coerced isolation of the condemned and gestures to our shared inheritance.

The challenge is thus: how can one re-create without re-circulating dominations?³⁴⁰

Filmmaker and theorist Trinh T. Minh-ha’s work embodies and enacts radical openness through cinematic and literary disclosure that seek to resist violence, and in particular the re-circulation of dominations. While gazing at others through film production, Trinh simultaneously gazes at herself. And through this, she draws attention to that which is marginalized, concealed, unperceived and unvalued by dominant institutions, epistemologies, and cultures of art production and dissemination. Trinh’s documentary films challenge the objectivity of spectatorship (as filmmaker and audience) that this genre of cinema typically feigns. As she states in a voice-over in her 2001 film

³³⁸ Chandler, *Toward an African Future*, 106.

³³⁹ Ibid.

³⁴⁰ Trinh, *When the Moon Waxes Red*, 15.

The Fourth Dimension, “you’ll enter into fiction while yearning for invisibility.”³⁴¹ Much as in Ronell’s assertion of our mutual haunts, our incessant disruptions by and for one another, in any encounter, one is never invisibly watching; one always impacts what one watches—and, one is frequently being watched, through a simultaneous network of perceptions and interpretations, by those whom one is watching. Given that there is no essential, total, containable truth that defines a culture, people, or individual, all acts of chronicled spectatorship must be disclosed as subjective interactions. There are several instances in the film *The Fourth Dimension* when someone Trinh is filming looks directly into the camera, and therefore into the watching eyes of the film audience. At one point, for example, we see a group of young Japanese girls in makeup and traditional attire, standing together and talking, seemingly witnessed in a pre-performance moment. The shot feels voyeuristic in that the camera is filming them from a distance, using the camera’s zoom function to bring the object (in this case the girls) closer to the viewer. Then, suddenly, one of the girls we are watching from afar turns and looks directly into the camera, so that she is looking directly “at us” as we look at her. In this moment, we know the girl sees the camera itself, and through it, she sees our viewing of her. The fixed roles of objecthood, subjecthood and the gaze are muddled, displaced, disclosed. Whereas most filmmakers excise such unanticipated moments to preserve a typical cinematic experience or narrative, Trinh includes these unplanned encounters in her films, unsettling the authority and immunity of history-maker and voyeur—we too (filmmaker and audience) are a part of the *interaction*. In another scene, while filming the

³⁴¹ *The Fourth Dimension*.

interior of a Japanese home, through a reflection in the glass of a framed art piece, we catch a glimpse of the filmmaker herself holding the camera with which she is making the film. Again, by choosing not to remove this revealing moment, Trinh explicitly discloses the subjectivity that is always at work, but generally concealed from the viewer—in this case, in the form of witnessing a filmmaker filming the film one is watching *while* one watches it, she, and her subjectivity, become part of the object.

In her 1981 film *Reassemblage: From the Firelight to the Screen*, she addresses her attempts to unsettle the binary of subject and object in documentary filmmaking by stating, “I do not intend to speak about; Just speak nearby.”³⁴² By rejecting the authority of objectivity claims, which are used to legitimate contained representations of the other in the genre of documentary film, Trinh sheds light on the simultaneous cowardice and violence of invisibility’s fiction. However, I would like to interject a criticism here, before elaborating further on her work. I propose that in her endeavor to not speak about, and instead speak nearby, she reproduces certain stereotypes, and in the name of plural encounter reinforces the silencing of a population whose voice is frequently marginalized and silenced in Western discourse. As opposed to her 1989 documentary film *Surname Viet Given Name Nam*, in which the viewer hears the Vietnamese women speaking and accesses the English translations of their words, in *Reassemblage*, which is filmed in Senegal, when the Senegalese women speak, their speech is used as music, and untranslated for the viewer. The fact that they are employed as musical instruments and that we are not given access to the possibility of understanding what they are expressing can

³⁴² Trinh, *Framer Framed*, 96.

operate as a kind of speaking for, in which in place of speech is a coerced and imposed language of silence, or, of Trinh's own musical composition and philosophizing.

In *Surname*, however, Trinh seeks to challenge totalizing representations while acknowledging our place in a network of hierarchies. In recognizing the impossibility of accurately portraying an "authentic" culture or people, Trinh deliberately performs fiction when she hires women to read pre-written scripts and to perform the personal experiences of other women. In this way, she discloses the fiction, subjectivity, narrativization and crafting that is always present in documentary film, documenting and history-recording. The film is self-reflexive in that the participants in the documentary go on to speak about when and why they chose to participate in the film—such that the film addresses its own creation (and the various subjectivities within it). Trinh's own self-reflexivity also leads her to renewed encounters with her own closures despite her aspirations to openness. For example, in an interview Trinh describes realizing the limitations of her own assumptions while filming *Sur Name Viet*:

...I asked the women to choose how they wanted to be presented as we moved to their own stories. The choices they came up with were often disturbing to me. I was expecting something that relates intimately to their daily existence and instead, they chose something that was...I wouldn't say nonexistent, but almost. For example, one woman wanted to be seen at a fish pond and she had no fish pond at home so the whole crew had to go through this ordeal of finding a fish pond for her. Why a fish pond? Why not choose something you really like in your daily situations? She said no, it is a fish pond that I really like to be shot with, and I realized afterwards looking at the footage...how important this fish pond is, both for her personally and for the film. She is a working-class woman living at the time in a very small apartment with a large family, and having always been such a richly significative symbol in Asian cultures, the fish pond seems to point here to a dream space, a space of meditation where you can rest and retreat from the pressure of daily work...The truest representation of oneself always involves elements of fiction and of imagination,

otherwise there is no representation, or else, only a dead, hence ‘false,’ representation.³⁴³

Trinh found herself harboring notions of authenticity—in this case what authentic and appropriate self-representations her film’s actresses should convey—*while* trying to challenge the idea of an authentic and true representation through her film. Through this depiction of an honest encounter with herself, Trinh shows that disclosure is, in part, to be willing to unsettle and undermine one’s own fixed perspective in order to experience crucial discoveries that would remain otherwise inaccessible.

To undertake disclosure of the self one must assume personal responsibility and relationality, such that, as Glissant writes in “[e]ach of its parts patterns activity implicated in the activity of every other.”³⁴⁴ This view of relationality leaves us—whatever we are—always implicated in the lives of, and related to, one another. Accepting such a simultaneously wide and intimate scope of relationality already undermines systems of containment and isolation. One way to emphasize this relationality is to disclose the elements that are deemed unvaluable or peripheral to the dominant system: our concealed relational threads. In *Surname Viet*, Trinh unsettles the commonly accepted frameworks/frames for cinematic listening and viewing, writing that “truth is not always found in what is visible.”³⁴⁵ For example, during the monologue of the woman who plays Thu Van, the camera pans to the speaker’s throat, shirt, and hands while she speaks, before ever showing us her face.

³⁴³ Ibid., 167-168.

³⁴⁴ Glissant, 33.

³⁴⁵ *Surname Viet Given Name Nam*.



Figure 18



Figure 19



Figure 20



Figure 21

At times, the frame only includes portions of the speaker's face: her mouth, or a single eye, for example (Figures 17-20). This shifting, fragmenting and unpredictability of frame and focus serve to shake the viewer out of her repose, out of her habitual and automatic modes of seeing, listening and reading. In this way, the audience is required to "make meaning" from unfamiliar content or through unfamiliar means. This leads to a disclosure of the self for the viewing audience: in not having our expectations met, we become aware of our expectations. By seeing our expectations, we can more easily untether ourselves from the limitations of their pre-established narratives. After all, an expectation is a prediction of a destination, and as Trinh has shown, destinations operate as containments. Not only do Trinh's cinematic defamiliarizations unsettle modes of reading to which we are accustomed, but they also draw attention to the hidden, the small, the implicit and the neglected, all of which communicate through un-standard vocabularies. For example, at times during the monologue when Trinh only gives us access to the speaker's hands, through this particular juxtaposition of audio (an autobiographical monologue) and visuals (only the subtle gesturing of the hands), we witness the vulnerabilities, emotions and hesitations that may be communicated through parts of the body but which tend to be overshadowed by a more common focus when one is listening to a speaker: the speaker's face. By focusing on these overlooked sources of information (such as one's hands when one is speaking), we are reminded of the various relationships between parts deemed to be peripheral, and the various relationships between part and whole.

The power to experience the shock of elsewhere is what distinguishes the poet. Diversity, the quantifiable totality of every possible difference, is the motor driving universal energy, and it must be safeguarded from assimilations, from fashions passively accepted as the norm, and from standardized customs.³⁴⁶

To avoid the potential violence of destination-oriented narrativization and containment, one must be open to a radical plurality—to what Trinh refers to in *The Fourth Dimension* as “infinite suggestiveness.”³⁴⁷ The title of this very film, *Fourth Dimension*, references what lies beyond the third dimension; namely, a dimension of possibility. Glissant, like Chandler in his consideration of the “categorical,” argues that people, cultures, patterns, experiences, etc., exist entangled in one another, and we disentangle them, not because they need to be disentangled, but to better read and understand them. We alter them in order to contain and possess them in our understanding. Radical openness gestures toward this plurality and its significance for the practice of reading. What makes plurality-in-reading “radical” is, in addition to its unfinished-ness, that it involves being receptive to un-experienced, unanticipated and unimagined potentialities and multiplicities—what Nikolas Kompridis refers to as seeing things “in light of possibility” and “how they might be otherwise.”³⁴⁸ Glissant, using the term “elsewhere,” notes that “[w]hen you awaken an observation, a certainty, a hope, they are already struggling somewhere, elsewhere, in another form.”³⁴⁹ “in another form”

³⁴⁶ Ibid., 29-30.

³⁴⁷ *The Fourth Dimension*.

³⁴⁸ Kompridis, *Critique and Disclosure: Critical Theory Between Past and Future*, 20.

³⁴⁹ Glissant, 45.

may be in another language (not necessarily verbal language)—perhaps a yet un-encountered language. Just because you don't see it, does not mean it does not exist; as Crawley observes, "otherwise simply waits for interpretation."³⁵⁰ Trinh aspires, in her films and books, toward a disclosure of inexhaustible plurality by providing her audience with tools to enact their own disclosures. She seeks to "offer meaning in such a way that each reader, going through the same statements and the same text, would find tools for herself (or himself) to carry on the fight in her (or his) own terms."³⁵¹ In this way, Trinh's work shares the responsibility for meaning-making with the viewer. In addition to deliberately withholding resolution, narrative and destination, and unsettling ubiquitous modes of cinematic frame and focus as mentioned earlier, she also employs juxtaposition as a tool for producing pluralities that temporally and subjectively exceed the filmmaker. A common poetic device is the use of juxtaposition as a pairing of things that seem, at first encounter, unrelated, but the proximity which generate unanticipated readings for both the writer and audience. Trinh uses juxtapositions in this way, allowing the reader to have her own "surprising" encounters. For example, in *The Fourth Dimension*, Trinh cuts back and forth between shots of cyclists exercising feverishly at an urban gym and a group of musicians playing traditional Japanese music, thereby rupturing the tendency toward narrative—both in the film and in the audience's mind. The relationship between these two scenes is not immediately clear; they do not form a linear narrative. But Trinh repeatedly cuts back and forth between these scenes, such that they encounter one another again and again on the screen and in the viewers' minds. And these repeated encounters

³⁵⁰ Crawley, 241.

³⁵¹ Trinh, *Framer Framed*, 154.

disclose alternative potentialities of relation. The key is that the interpretations and correlations between these images are produced in each individual viewer's mind, and therefore unique to each individual. For example, one may read this juxtaposition through the ubiquity of social ritual, or the trajectory toward isolation with increased industry and technology in Japan, or the impact of globalization and one's own role in it, etc.

Radical plurality, then, is a rejection of epistemological totalitarianism and of the violence generality and objectivity imply and enacts when put into practice—not only because plurality points to other visible and repressed modes of expression and thought, but also because it demands a perpetual openness to an unanticipated “otherwise” or “elsewhere” that does not register in the dominant system, and which may undermine systems from which one may unjustly benefit, thereby constantly unsettling the authority of self over other.

**Law is the projection of an imagined
future upon reality.³⁵²**

Regarding her philosophical approach to social and political discourse, Angela Davis asks: “How do we imagine a better world and raise the questions that permit us to see beyond the given?”³⁵³ In *Reassemblage*, Trinh T. Minh-ha writes that her work “is not just about transgression. Breaking rules is not my main concern since this still refers

³⁵² Cover, 206.

³⁵³ Davis, *Abolition Democracy*, 5.

to rules.”³⁵⁴ Much like Trinh, Davis envisions a legal, juridical and penal reality that does not rely solely on counterdiscourse, but rather on an aspiration toward otherwise.

Davis notes that racism is always changing, systemic and no longer “explicit,” such that our reactions to it must always be changing. She observes that when the “conventional markers” of racism are no longer there, such as with colorblind language employed in the law, one must “continually reconfigure the terms and transform the terrain,” a task which requires “new theories and practices.”³⁵⁵ To view any response or remedy as permanent and complete seduces one to reduce and oversimplify the circumstances that led to searching for a remedy in the first place. Such a practice can lead to negotiating only that which is negotiable, and discussing only that which is discussible, leaving the bulk of implicit and coded historical and systemic forces largely ignored. That is to say, creating a closed and containable “solution” implies a closed and containable “problem,” ignoring the temporal, institutional, social, cultural and individual complexities and adaptabilities in the “problem.” To allow for the possibility of an otherwise and elsewhere—theoretically and institutionally—Davis asserts the need to interrogate and re-assess our ideological limits.³⁵⁶ She challenges the reader to imagine a world without prisons—just as, historically, radical thinkers imagined a world without slavery, and later, a world without legal segregation.³⁵⁷ Reform leaves the perpetual state of emergency as a foundational state practice intact. Her proposal to dismantle the prison

³⁵⁴ Trinh, *Reassemblage*, 230.

³⁵⁵ Davis, *The Meaning of Freedom and Other Difficult Dialogues*, 19.

³⁵⁶ Davis, *The Meaning of Freedom and Other Difficult Dialogues*, 30.

³⁵⁷ *Ibid.*, 29.

system, however, addresses the permanence of the U.S. state of emergency, and is, I posit, a proposal for a radically open encounter with law.

The U.S.'s rhetorical, political and legal practices of professing imperfection while simultaneously asserting objective superiority appeals to "improving" the state—i.e. reform—as opposed to a radical re-imagination. To imagine more radical(ly open) legal, juridical, and penal encounters involves rejecting the violence of occlusion and foreclosure of otherwise possibilities, and the illusion of the promises of reform and the violence woven into the warp and weft of nations developed through perpetual states of emergency.

Davis traces the correlations between the contemporary American prison system and U.S. slavery, noting that, specifically, "slavery as an institution...managed to become a receptacle for all of those forms of punishment that were considered to be barbaric by the developing democracy."³⁵⁸ Drawing attention to America's legal inheritance from slavery, Davis writes that state violence "was offered refuge within slave law" and was therefore able to persist through to the contemporary American legal and juridical systems.³⁵⁹ Part of this violence is the façade of equality in the application of the law. Discussing what she calls "the hidden racism of the law" Davis notes that the American legal system is a highly racialized and discriminatory system descending from the laws and practices of slavery. Pointing to "economic and political structures that do not openly display their discriminatory strategies," she draws attention to the "the inheritances of

³⁵⁸ Davis, *Abolition Democracy*, 18.

³⁵⁹ Davis, *Abolition Democracy*, 19.

racism” in the form of capital punishment as part of the penal systems in the U.S.³⁶⁰ Davis notes “basic structural similarities” in terms of profit and violence between the American prison system and the American military system; in what she calls “the punishment industry,” she challenges the claim that imprisonment is directly proportional to crime or that it is a strategy for achieving justice.³⁶¹ She argues that imprisonment is not a penalty directly related to committing crimes; rather it is “a consequence of racialized surveillance.”³⁶² Like Michelle Alexander, Davis proposes “the related processes of criminalization and racialization” and “the production of the criminal as pervasive threat.”³⁶³ In the U.S. perpetual state of emergency:

All that matters is the elimination of crime—and you get rid of crime by getting rid of people who, according to the prevailing racial common sense, are the most likely people to whom criminal acts will be attributed. Never mind that if this strategy is seriously and consistently pursued, the majority of young black men and a fast-growing proportion of young black women will spend a good portion of their lives behind walls and bars in order to serve as a reminder that the state is aggressively confronting its enemy.³⁶⁴

The state, in materially practicing its rhetoric of enemy-condemnation, uses legal, judicial and penal institutions to conceal our ethical responsibility to language and to one another through condemnation and an occlusion of historical systemic violence. In *Race and Criminalization*, Davis asserts that the threat attributed to the racialized figure of the criminal allows for tremendous state violence, including “torture, brutality, vast

³⁶⁰ Ibid., 80.

³⁶¹ Ibid., 21-22.

³⁶² Ibid.

³⁶³ Ibid., 87, 101.

³⁶⁴ Davis, *Race and Criminalization*, 267.

expenditures of public funds,” in the name of preserving the state and public safety.³⁶⁵ Importantly, she cites the prison industrial complex as a process for removing “dispensable populations from society” such that “the prison becomes a way of disappearing people in the false hope of disappearing the underlying social problems they represent.”³⁶⁶ In making this assertion, Davis discloses the correlation between the U.S. penal system and the violence of the perpetual state of emergency—in particular its practice of marking certain individuals as threats to the state and thus necessarily “dispensable.” In *The Law is a White Dog*, Colin Dayan draws attention to the formation of perpetual predators.³⁶⁷ She highlights the “rituals of expulsion” in crisis and enemy-formation:

Who gets banned and expelled so that we can live in reasonable consensus? Let us name them now. Criminals. Security Threats. Terrorists. Enemy Aliens. Illegal Immigrants. Migrant Contaminants. Unlawful Enemy Alien Combatants. Ghost Detainees.³⁶⁸

Dayan’s reading conveys that the strategic creation of crises by classifying prisoners as dangerous, threatening and untrustworthy—in particular those who are deemed to deserve isolation—allows for tremendous state violence that is not scrutinized by the law through the courts, and is in fact reinforced by them.³⁶⁹ Like Robert Cover’s observation of the homicidal power of judges, Dayan notes the rhetorical violence employed by the

³⁶⁵ Ibid., 270.

³⁶⁶ Davis, *Abolition Democracy*, 41.

³⁶⁷ Dayan, 250.

³⁶⁸ Ibid., 22.

³⁶⁹ Ibid., 93-94.

courts, and the material violence to which it leads, include “judges whose linguistic maneuvering has lethal effects on those whose lives depend on their words.”³⁷⁰

Remarking on the coerced normalization of state violence, Davis notes that “just as capitalism has naturalized poverty, crime is similarly naturalized through an “ideologically produced fear of crime.”³⁷¹ If crime is inevitable, then there must be more police and more prisons.”³⁷² Given the tremendous amount of corporate and federal profit garnered through imprisonment in the U.S., the naturalization of the perpetual threat of crime, and thus, the perpetual need for prisons, is in the interest of the state. As Davis observes, prisons are not structured to provide rehabilitation, but rather, profit for a select few who are not in prison, and thus “reproduces the conditions of its own expansion.”³⁷³ In a perpetual state of emergency, for the preservation of which enemy-designation is crucial, those publically deemed to be threats must be aggressively confronted in order for the state to perpetually give the impression of striving—though, importantly, never succeeding—to eliminate the threat. The prison industrial complex, a U.S. institution deeply integrated with and dependent on legal and juridical institutions, is presented by the state as an imperative weapon against the enemy and a tool for state preservation. As a result, incalculable and diverse psychological, emotional, economic, spiritual and physical violence is imparted daily through American prisons—and is normalized as a necessity for state safety and preservation. In conjunction with surveillance and increased militarization of civilian spaces in the context of a state of emergency, the modern state’s

³⁷⁰ Ibid., 196.

³⁷¹ Davis, *Race and Criminalization*, 269-270.

³⁷² Davis, *Meaning of Freedom*, 28-29.

³⁷³ Ibid., 67.

use of prisons is bound to the use of rhetorical violence. Both Iran and the U.S. rely on linguistic binaries that legally and socially mark as dangerous those who are imprisoned, while preserving the zero point position held by each respective government. In Iran, surveillance is manifested through such means as patrolling morality enforcers, random interrogations, search and seizure of private property, and such gendered violations as random, “official” virginity tests for women; and in the U.S., through profiling by authority figures—such as in stop-and-frisk policies, drug-testing in low-wage jobs, and biometric information technologies.^{374 375}

Through a thoughtful analysis of the political, cultural, economic and legal inheritance of American prison systems and the legal and juridical systems to which they are tethered, Davis proposes what, in the context of the perpetual state of emergency, may seem like a radical notion: the abolition of prisons. This proposition is presented not as a singular abolition of individual prisons, but as a broader, more interconnected process of dismantling that treats the prison industrial complex as part of a larger matrix of power that must be scrutinized and re-imagined.³⁷⁶ Additionally, Davis stresses that abolition democracy implies not only dismantling, but also “demanding” and building. She notes that one of the most difficult aspects of the project of any critical re-imagining is persuading people that the aspiration is even possible.³⁷⁷ This is one of the greatest violences enacted through the zero point of observation: criminalizing modes labeled

³⁷⁴ In using the term authority, I not only refer to those who hold positions of official power such as policemen, but also to anyone—such as George Zimmerman—who legally benefits from intersectional systemic hierarchies of powers such as with racism and sexism.

³⁷⁵ Brown, *Dark Matters*.

³⁷⁶ Davis, *Abolition Democracy*, 54.

³⁷⁷ *Ibid.*, 59.

deviant from the norm, while also suppressing imaginative access to conceiving of realities that are otherwise than. Her theoretical and practical proposal to abolish prisons unsettles and de-centers the discourse around the possibilities for penal institutions in the U.S. By proposing their abolition, Davis undermines the logic and ideology on which they are based, which is the same logic and ideology that undergirds a perpetual state of emergency. What makes such a proposal radically open is that it gestures to both a physical and institutional dismantling; but more importantly, it advances the possibility for what Crawley calls an “abolition against...the episteme that produced for us current iterations of categorical designations of racial hierarchies, class stratifications, gender binaries, mind-body splits.”³⁷⁸ In other words, when Davis refers to “re-imagining” and “creating” in the process of abolishing prisons, she is proposing an abolition of the violent episteme that produces and perpetuates legal, juridical and penal institutions. Thus, her proposal to “render prisons obsolete” engages both with the practice of legal state violence and the grounds for this very violence.³⁷⁹

³⁷⁸ Crawley, 1.

³⁷⁹ Davis, *Abolition Democracy*, 75.

Conclusion

To distinguish a perpetual state of emergency is to discern foundational state violence that falsely claims threats that render it necessary are temporary and thus uniquely pressing. In the U.S., this professed temporary quality is what keeps the U.S. origin myth in tact and vigorously effaces the violence through which this nation and its institutions were founded and the perpetuating ideologies on which its legal, juridical and penal institutions were formed and continue to be systemically administered. Even in the case of the Islamic Republic of Iran, while Ruhollah Khomeini asserted that Islam contends with permanent enemies, he emphasized that at the time of his writing, threats to true Islam—whether in the form of fake Muslims or Western, corrupt forces—were particularly high, and thus especially in need of confrontation. To accept this claim of state violence’s temporary-ness and exceptionality is to accept that such state violence is legitimate and temporarily necessary; and any aspiration to reduce or eradicate this violence, to hold it accountable, involves entering a purgatory of “reform.” If to reform is to make changes to something in order to improve it, then reform is not a sufficient, or even an effective, means to endanger the operations of legal state violence in a perpetual state of emergency. To enact reform is “to rely on the ideologies we think we are opposing.”³⁸⁰ That is to say, in order to conjure an appropriate remedy, one must at the very least, assess the causes for the problem, and in this case, the problem is neither temporary nor an exception. Thus, to adhere to the rhetoric and practice of reform in a

³⁸⁰ Davis, *The Meaning of Freedom*, 113.

perpetual state of emergency is to adhere to a mode of compliance with the state, in that resisting through modes such as reform are a compliance with the determination of those modes and the violences they enact. I do not intend to, and cannot, advance a “solution” to legal state violence; rather, I aim for my research to interrogate and further elucidate the dangers, and limitations, of aspiring to justice and resisting state violence through modes dictated and regulated by the state.

In considering forms of expression, investigation and resistance produced in violent and overwhelmingly disempowering legal and social circumstances, I seek for this project to explore poetic possibilities of resistance to the manifold operations of state violence; these possibilities include radically open and reconceived modes of authoring and imparting law, rehabilitation and justice.

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