

The “Real” in Resistance: Transgression of Law as Ethical Act

By Kambiz Behi*

What is refused in the Symbolic Order returns in the Real.

—Jacques Lacan, *Psychoses*

A tireless builder, the deject, is in short a stray. He is on a journey, during the night, the end of which keeps receding. He has a sense of the danger, of the loss that the pseudo-object attracting him represents for him, but he cannot help taking the risk at the very moment he sets himself apart. And the more he strays, the more he is saved.

—Julia Kristeva, *Powers of Horror*

Western philosophical literature on domination and resistance—from Hegel’s portrayal of the slave’s “unhappy unconsciousness” in the *Phenomenology of the Spirit*, through Nietzsche’s accounts of how bad conscience becomes the essential component of subjectivity, to Gramsci’s hegemony and “false consciousness”—cast a Manichean view of the world. Studies of domination and resistance across the social sciences suffer from this metaphoric division between *res cogitas* and *res extensa*: mind and body, persuading and coercing, colonizer and colonized. Mitchell (1990:573) has raised this critique against recent works on domination and resistance—particularly Scott’s *Weapons of the Weak* (1985) and *Domination and the Arts of Resistance* (1990)—for casting a binary worldview that, far from bringing to light analyses of resistance, “works itself into the very vocabulary with which we speak of power.” According to Mitchell, approaching the question of “domination in terms of essential distinction between physical coercion and ideological persuasion” fails to address the issues of power and only “represents a way of writing in which such two-dimensionality is merely reproduced” (1990:573).

Poststructuralists, following Foucault (1978:93-94), have been able to argue convincingly that the division between domination and resistance is illusory and that the omnipresent power consolidates everything under its “invincible unity.” For Foucault (1978:94), there was no all-encompassing binary opposition between domination and resistance in the field of power relations because there is no such duality that extends from the top, to act upon the subordinate at the “depth of the social body.” In Foucault’s unitary field of power, there is “no single locus of great Refusal, no soul of revolt,” no sources for rebellion, or a pure law of revolution; instead, there is a multiplicity of resistances, each playing a role in the network of power relations (1978:95-96). Resistances, in Foucault’s conception, are not reactionary forces always in the periphery of dominant forces; rather:

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[t]hey are the odd term in relations of power; they are inscribed in the latter as an irreducible opposite. Hence they too are distributed in irregular fashion: the points, knots, or focuses of resistance are spread over time and space at varying densities, at times mobilizing groups or individuals in a definitive way, inflaming certain points of the body, certain moments in life, certain types of behavior. Are there no great radical ruptures, massive binary divisions, then? Occasionally, yes. But more often one is dealing with mobile and transitory points of resistance, producing cleavages in a society that shift about, fracturing unities and effecting regroupings, furrowing across individuals themselves, cutting them up and remolding them, marking off irreducible regions in them, in their bodies and minds (Foucault 1978:96).

Foucault further points out that resistance, like a network of power relations, which forms a web that passes through apparatuses of power and institutions, “traverses social stratifications and individual unities” (1978:96).

Foucault’s pluralistic notion of power discourse as a heterogeneous field of multiple resistances only allows for the subversion and rearticulation of power relations within the symbolic field. In other words, the Foucauldian notion of resistance is always immanent to power and therefore any new Symbolic order created after a successful resistance (revolution) is inherently of the same structural bases of juridico-political order as the previous one. Psychoanalytic theory, along with empirical anthropological works, points to a third conception of resistance—beyond structuralist or poststructuralist conceptions—by introducing the possibility for a radical rearticulation of the entire Symbolic order by means of an act proper: through passing into “symbolic death” (Žižek 1999:262). From the perspective of Lacanian theory, Foucault’s notion of resistance is a “false transgression that reasserts the symbolic status quo and even serves as a positive condition of its functioning” (262). Although it may explain values that are associated with “everyday resistance,” as types of power-play that sanction manipulation of meanings, it nevertheless fails to elucidate the manner in which “pain” or “suicide” as forms of resistance (Kleinman 1992, 1995) could be “romantic” (Abu-Lughod 1990) or “cunning” practices (Reed-Danahay 1993).

Lacanian psychoanalytic theory offers an alternative approach for rethinking resistance as a radical rearticulation of a predominant Symbolic order when a new *point de capiton*—a quilting point or Master-Signifier—emerges, displacing and restructuring the previous order in principle. Lacanian resistance is unleashed from the Real, an order within the Real-Imaginary-Symbolic triad of Lacan’s psychoanalytic realms, which aims to explain various levels of psychic phenomena in subjectification, or formation of the subject. Unlike the Imaginary, the order of iconic identification vis-à-vis the Other, and the Symbolic, the order of language and law, the Real is that which is the traumatic kernel at the core of subjectivity. Lacan considers the physicality of the body to be the locus of the Real, which, opposed to its Imaginary or Symbolic reification/subjection, cannot be directly known, but its effects are “always redoubled into the traumatic event ‘in itself,’ and into the trauma of its symbolic inception” (Žižek 1997:95, 215-16). Although it cannot be Imagined or Symbolized, the Real exerts its influence upon subjectification since it continues to determine and define that subject, persisting as a kind of “defining negativity” (Butler 1992:190).

In this conception, the Real in resistance is much more than “making do” or “making out” in difficult situations, especially in circumstances where individuals are struggling for their lives. Žižek points out that resistance of the Real is much more than just a performative act that reconfigures “one’s symbolic condition via its repetitive displacements”:

one should maintain the crucial distinction between a mere ‘performative reconfiguration’, a subversive displacement which remains within the hegemonic field and, as it were, conducts an internal guerrilla war of turning the terms of the hegemonic field against itself, and the much more radical act of a thorough reconfiguration of the entire field which redefines the very conditions of socially sustained performativity (1999:264).

Žižek reiterates that performative reconfigurations “ultimately support what they intend to subvert, since the very field of such ‘transgressions’ is already taken into account, even engendered, by the hegemonic form” of symbolic norms and their codified transgressions (1999:264). The matrix of the Symbolic order is deeply invested in a set of ideological institutions, rituals, and practices, which cannot be effectively undermined by linguistic transgressions or performative gestures because they are of the same Symbolic type. Through the Lacanian concept of Real, it is possible to conceptualize resistance to law as an already completed act which originates from the remainder of subjection process—a bit of the Real that is refused in the Symbolic.

Anthropological literature captures this radical form of resistance that relates experience to the body, the domain of the Lacanian Real. Kleinman (1994:716), for instance, argues that pain and chronic illnesses are forms of resistance against forces of domination. Kleinman’s (1985) research in Hunan among survivors of China’s Cultural Revolution is suggestive of how common bodily symptoms acted “as metaphors of collective and subjective disorientation, exhaustion, and hurt in exceptionally dangerous times.” These bodily symptoms of juridico-political violence are symbols or manifestations of alternative memories, disguised in acts of resistance. Kleinman ascribes two different aspects of resistance as manifestations of bodily pain: resistances as existential processes in which suffering is the result of resistance to the lived flow of experience, and resistance to political domination, which may be active struggles against such forces or passive forms of noncompliance (1992:174).

In the context of Brazil, Scheper-Hughes (1993:195) argues that the folk illness of *nervos*, *nervosa*, or *doença de nervos*, is a condition of extreme nervousness—a common and potentially fatal psychosomatic folk syndrome—which has become an idiom through which the body experiences and acts out everyday social injustices and economic hardships. The *nervos* discloses the ways in which victims fall into a state of self-blame in the face of structural weaknesses of the social, economic, and legal order. At the same time, the bodily manifestation of *nervos* allows patients to transgress everyday speech norms and voice their anger and discontent. Realizing the futility of engaging in political protest, they are left with the possibility to express their discontents into the *nervos*/hidden transcript of the body. But the *nervos* is also an idiom of resistance through which patients can employ a body language that legitimizes their claims and

gains them a “version of the work slowdown or sickout, the so-called Italian strike” (Scheper-Hughes 1993:186).

Perhaps the most radical form of Real resistance is suicide in which the subject eliminates the Symbolic order through eliminating his/her very being. Suicide as a form of social resistance has been documented in historical records of Japan (*seppuku*), India (*suttee*), and China. Acts of suicide of historical “tragic heroes,” or more recent examples of suicide among the youth in China, are instances of Real resistances against juridico-political domination (Lee and Kleinman 2003:296). The resistance/suicide of Qü Yuen, the righteous official who lived during the rule of an unjust emperor, is probably the most prominent example in Chinese history. In order to draw attention to bad governance, Qü Yuen took his own life, an act that was the exclusive right of the emperor. In other instances, righteous bureaucrats committed suicide to resist the dominant sociopolitical order, so that in their dying they could achieve virtue (Lee and Kleinman 2003). There were instances of suicide by intellectuals during the Cultural Revolution as an ultimate act of defiance against political brutality and betrayal by the state during the reign of Mao (Lee and Kleinman 2003). Mao himself explained that the reason people “respect martyrs through suicide is not because they respect suicide as such, but rather because they stand in awe of the fearless spirit of ‘resisting’ tyranny.” Since Chinese thinking is not rooted in the Western tradition of mind-body dualism, as Kleinman (1998:378) points out, “the dichotomy between body and society did not weigh as heavily on them as it has in the West.” Resistance through suicide suggests that practitioners equate moral or ethical standing with the whole apparatus of the Lacanian tripartite existence, as, “in traditional Chinese orientation, society, body, and self are in constant relationship so that one can speak of moral-somatic and moral-emotional processes” (Kleinman 1998:379).

In the context of Iran, I have investigated resistances of a high-ranking jurist, Grand Ayatollah Hossein Ali Montazeri Najafabadi, formerly the designated successor of Ayatollah Khomeini. Throughout the 1960s and 1970s Ayatollah Montazeri was deeply involved in the political resistance against the Shah and, as a result, spent several years in prison and was tortured by the SAVAK (the Shah’s secret police). Politically, he advocated the establishment of an Islamic government following Ayatollah Khomeini. Throughout the revolutionary process, he was a close associate of Khomeini, representing his office in Iran while Khomeini was in exile in Turkey, Iraq, and France. Montazeri was naturally the foremost candidate to succeed Khomeini as Iran’s *velayat-e faghih* (the rule of jurist-consult). After the revolution of 1979, as one of the founding fathers, he worked on the first constitution and ensured the expansion of civil liberties and the implementation of free elections.

Ayatollah Montazeri, however, was not satisfied with the revolutionary outcome and felt that it fell far short of delivering the revolution’s promises. In early 1981, he criticized the fundamentalist faction for their treatment of political prisoners and ordered the release of several thousand detainees, also demanding the heightening of prison standards. Montazeri became increasingly critical of human rights abuses of the new regime, its hard-line rhetoric against the West and Israel, and its disregard for Iranians’ emigration. He remained in the post of *marja-e taghlid* (source of emulation)

in Qom, but due to his public criticisms of the regime he was gradually marginalized and finally in 1989 ousted as the designated heir to Ayatollah Khomeini prior to the leader's death. After the nomination of Ayatollah Khamenei—a lower ranking cleric—to Supreme leadership, Montazeri expressed his fierce opposition not only to the new leader but also to the very ideological foundations and legitimacy of *velayat-e faghih*, a formal institution he had helped to set up. Thinking that the goals of the office of *velayat-e faghih* had drastically changed since the revolution, Montazeri argued that the Supreme Leader, Ayatollah Khamenei, should submit himself to popular elections, curtail his power, and be accountable and open to public criticism for his actions. In 1997, Montazeri was placed under house arrest, and the state-run media stripped him of his religious title of Grand Ayatollah, describing him as “simple-minded.”

Regardless of personal attacks and his house arrest, which lasted more than five years, Ayatollah Montazeri, as one of the few senior jurists in the country, continues to exert enduring influence over the faithful and the reformist faction. What prompted Ayatollah Montazeri to give up the most powerful seat in the Iranian political system to willingly and proudly accept abjection from the hierocracy? How can we explain his current position vis-à-vis the official juridico-political apparatus?

Resistances of Ayatollah Hussein-Ali Montazeri Najafabadi

I. Traumas and Affects

What distinguishes man from animals is thus again the excessive fixation on the trauma (of the lost object, of the scene of shattering jouissance, etc.) . . . “Trauma” is that kernel of the Same which returns again and again . . . A trauma is always redoubled into the traumatic event “in itself,” and into the trauma of its symbolic inception . . . when one is caught in a trauma (a concentration camp, a torture chamber . . .), what keeps one alive is the notion of bearing witness – “I must survive in order to tell the others (the Other) what really went on here . . .” (Žižek 1997:95, 215-16).

Ayatollah Montazeri's *Khatirat* (Memoirs), in addition to providing an alternative account of Iran's pre- and post-revolutionary historical events, operates as a journal of traumas and affects. These narratives revolve, for the most part, around Montazeri's incarceration and his relationship with his son, Mohammad Montazeri. Born in 1922 in the town of Najafabad, Isfahan, Hossein-Ali Montazeri was the eldest son of Hajj Ali Montazeri and Shah-Beigum Sobhani. Although Hajj Ali Montazeri was a farmer, he was also engaged in Islamic studies and served as Friday prayers' leader in the mosque of Imam Zaman in Najafabad. Like many rural Iranians, Hajj Ali Montazeri's life was greatly disturbed by the top-down modernization policies of the Pahlavi regime. Until the mid-twentieth century Najafabad was a predominantly agricultural town with several carpet-weaving workshops where many of Najafabad's women worked. However, because of its close proximity to Isfahan (about 30 km), Najafabad was intensely affected by industrialization projects. Najafabad's modernization plan began during the reign of Reza Shah (1924-1941) and became more extensive under Muhammad Reza's (1941-1979) reign, when several

manufacturing plants and a large steel mill factory were built on the outskirts of the town.

At the age of fifteen Hossein-Ali Montazeri moved to Isfahan to study in a seminary. Within four years, he graduated and moved to Qom, where he married and began his clerical career working with such notables as Ayatollah Boroujerdi and Ayatollah Khomeini. Montazeri became an aide to both Boroujerdi and Khomeini, helping them in publication of religious manuscripts and passing religio-political edicts to clerical leaders of other provinces.

The turning point in the life of Ayatollah Montazeri came on March 23, 1966, when he and his son, Mohammad, were arrested for alleged activities against the Pahlavi regime. They spent almost two years in prison, and the experience left a deep impact on Montazeri. On September 7, 1966, Montazeri wrote a letter of complaint from prison:

It has been six months that I have been incarcerated in Qezel Qaleh [Red Fort] prison in solitary confinement . . . I, Hossein-Ali Montazeri, along with my son, Mohammad-Ali Montazeri, have been detained with no clear charge; my home has been searched without a warrant and my belongings which include religious and scientific books have been illegally confiscated (quoted in Izadi 1988:71).

Montazeri and his son were imprisoned at the time when the Pahlavi regime was strengthening its internal security forces. After the 1953 coup, the government formed the SAVAK (secret police), which, by the late 1960s, was using modern interrogation techniques that involved various forms of physical and psychological torture. Although, because of his high religious status, Ayatollah Montazeri was not tortured as severely as his son, the whole experience deeply impacted him. He wrote:

He [Mohammad-Ali] was deprived of sleep, especially during the nights (which is a particularly painful torture); he was punched, burned, beaten; in one occasion he was slapped more than 400 times; as a result of this he has hearing and eye problems . . . I could hear the sounds of punching and slapping. He was forced to sit on a red-hot furnace . . . He shouted: "Imam Zaman." The interrogator cursed Imam Zaman. He said: "I recited the Ayah: [Ibrahim:69, Yusufali, trans.] 'We said, O Fire! Be thou cool, and a means of safety for Abraham!' and I felt that the fire is not bothering me as much and I tolerate it" . . . [but] these [tortures] were not conducted in front of me; he was next door. I could see from the corner of the door; I could hear the sounds; they did this on purpose to break my spirit. (Montazeri 2001a:193).

After his release from prison in 1967, Ayatollah Montazeri continued his religio-political activities in Qom. His experiences in prison seem to have confirmed his deep political convictions and emboldened his activities against the Pahlavi regime. In 1973, Montazeri was arrested for a second time and was exiled to the desert oasis of Tabass, Khorasan. From Tabass he was moved to various locations across the country: from a Mashhad prison he was exiled to Khalkhal, Azarbaijan, and from there to Saez in Kordestan. Finally, in 1975, he was taken to the notorious Evin prison in Tehran, where most high-ranking political dissidents were collected. From the early 1970s to the end of the decade, the Evin prison had in fact grown from a 320-inmate capacity (20 solitary cells and 300 inmates in communal blocks) to hold

1,500 inmates (100 in solitary and 1,400 in communal cells), with one block containing six interrogation chambers, a courtroom, and an execution yard (Abrahamian 1999:105). The SAVAK was given a “loose leash” to torture suspected dissidents with “brute force” that, over the years, “increased dramatically—in scope, intensity, variety, and sophistication” (Abrahamian 1999:105). The regime had expanded its SAVAK forces to over 5,000 full-time employees and many of its personnel were trained in the United States and Israel (Abrahamian 1999:105). The secret police was particularly interested in learning “scientific” torture methods in order to prevent unwanted death after application of “brute force” which, among other torments, included

sleep deprivation, extensive solitary confinement, glaring searchlights, standing on one place for hours on end, nail extractions, snakes, electrical shocks with cattle prods, often into rectum, cigarette burns, sitting on hot grills, acid dripping into nostrils, near-drownings, mock executions, and an electrical chair with a large metal mask to muffle screams while amplifying them for the victim, and rapes” (Abrahamian 1999:106).

After a year of suffering some of these tortures in Evin, Montazeri was sentenced to ten years in prison. Regarding the circumstances of his arrest and the reasoning behind his sentence, he wrote:

At the time [of the 1975 uprising in Qom] I was in exile in Saez and learned about the event from the media. Apparently the secret police had discovered a document containing information that “Ayatollah Montazeri is responsible for giving financial aid to the families of imprisoned or exiled clerics.” Based on this document they transferred me from exile [Segez, Kordestan] to prison [Evin, in Tehran]. They tortured me a lot. When I entered the interrogation chamber they began torturing me, using foul language before even asking a single question. Interrogations and tortures went on for fifteen days. After that they kept me in solitary confinement for more than six months. During that time I did not have access to a book or a newspaper; I did not have visitors. In a military court I was sentenced to ten years for alleged anti-state activities. This was the most severe sentence for that particular charge (quoted in Izadi 1988:195-96).

II. Fiqh (*Jurisprudence*)

Ayatollah Montazeri’s primary ideological design was a political and cultural return to an Islamic state, based on principles of Shiite jurisprudence. Montazeri’s political thought may have been influenced by Khomeini’s book, *Velayat-e Faghih* (Governance of the Jurist-consult), in which Khomeini delineated a theory of the Shiite state based on his interpretation of Usuli jurisprudence. Khomeini called for the establishment of a government under the stewardship of the *velayat-e faghih*: a leading jurist and *marja-e taqlid* (source of emulation) who was best able to interpret the Sharia. Following Khomeini, Montazeri put *ulama* at the top of his hierarchical scheme as representatives of the hidden Imam, the Twelver Shiite tradition. Montazeri also believed that true a Islamic rule was not possible except through implementation of Usuli jurisprudence, applied in accordance with inde-

pendent judges' deduction of the primary sources: the Quran, the Sunna, and *aql* (logic or reason) (Montazeri 2001b:6). Like Khomeini, Montazeri also drew on Irano-Islamic gnostic traditions in which the practitioner aims to develop his self toward a "refined" state based on a set of metaphysical assumptions. Montazeri's interpretations, however, differed from Khomeini's in that he emphasized a balance between deductive and devotional aspects of jurisprudence and, instead, highlighted the practical applicability of *fiqh*. After the revolution of 1979, Montazeri supported Khomeini's program for the implementation of *velayat-e faqih* with some adjustments. During discussions in the Assembly of Experts over the Constitution, a group of high-ranking clerics, led by Beheshti and Montazeri, insisted that *velayat-e faqih* should be explicit in the Constitution (Montazeri 2001b:6). Montazeri argued, however, that the most important condition for *fiqahat* (practicing jurisprudence) is knowledge and, in order to choose the most knowledgeable *faqih* (jurist), he should be elected by the community, the *umma*. "The most knowledgeable *faqih*," Montazeri wrote (Montazeri 2001b:7), "equates to being the most knowledgeable and understanding person with regard to Islamic issues that are related to governance of the community." He continued,

I believe that the arguments backing appointment are open to controversy while arguments for election are stronger. The *vali fiqh* is either delegated to the post of *velayat* by people or he takes charge of obligatory affairs out of religious commitment. Therefore, there is no need for a *faqih* to be appointed by infallible Imams. [However], even the principle of *velayat-e faqih* is not an essential issue of faith and it remains controversial (2001b:7).

The establishment of a clerical regime, the realization of the theory of *velayat-e faqih* into the political apparatus, and reformulation of revolutionary ideology had a sobering effect on Ayatollah Montazeri. Fischer (1980:11; 1990:130) suggests that after the revolution, in the fervent struggle to construct a new political system, reformulation of religious terms became customary, some suddenly taking on a new "meaningfulness not previously possible." One term that paralleled *velayat-e faqih*—but less legalistic in meaning—was the word "Imam," which was appropriated by revolutionaries to refer to Khomeini. Although some intellectuals and journalists initially objected to the use of "Imam" and suggested the alternative *nayeb-e Imam* (aide to Imam), Khomeini's official religio-legal position, as the *velayat-e faqih* and *marja-e taqhlid*, legitimated its usage (Fischer 1980:212). The title "Imam" further projected Khomeini's role as the contemporary religious leader who guided the struggle against the Yazid of the age, Mohammad-Reza Shah Pahlavi. Following Fischer (1980), Good and Delvechio-Good (1988:45) have pointed out that "during the Islamic Revolution, the revolutionary ideology . . . grew out of Karbala paradigm and rituals associated with public mourning and the Moharram rites," providing the "motivational structure that governed much of the revolutionary society." In this paradigm, "Imam" Khomeini confronted the anti-revolutionary, the arch-tyrants and destroyers of Islam whose very purpose was to eradicate the foundations of Islam and the clergy, jeopardizing the possibility of establishment of *madine-ye fazeleh* (utopian community) to be assembled when Imam Zaman comes out of occultation.

After the revolution, it became increasingly apparent that Ayatollah Montazeri was deeply concerned with the ethical applications of a Shiite political ideology. One area that particularly disturbed Montazeri was the newly established Judiciary and its pernicious conduct. "Our revolution," Montazeri wrote, "has become victorious at a time when we need, at least, 1,000 qualified judges, while even ten such judges are lacking" (Montazeri 2001b:22). The prison system encountered enormous problems as many detainees disappeared or were killed without trials. Torture and long captivity without any judicial process resumed as it had existed during the Pahlavi regime. Significantly, post-revolutionary judicial procedures were rearticulated in terms of Shiite law. The newly promulgated symbolic paradigm demanded, as Good and Delvechio-Good (1988:60) have pointed out, that "agents of injustice and cruelty [*mufsed-e fi al-arz*], be identified and eliminated." An event which quickened this process was the 1981 bombing of the Islamic Republic Party headquarters which killed seventy-three, including Chief Justice and party secretary, General Mohammad Beheshti, four cabinet ministers, twenty-seven Majlis deputies, and several other government officials, as well as Montazeri's son. This event may have provided the regime with a pretext to wage a war of elimination against the opposition which now included not only political dissidents but also contended clerical factions and Islamic liberals. "Many uncalculated, rash measures were taken under the guise of Islamic judgment due to lack of experience" causing "heavy blows to Islam and the revolution," Montazeri wrote (1988:22). In 1983, Montazeri approached Khomeini to complain about the Judiciary's excessive measures. He wrote:

One of the issues that had created controversy in the beginning of the revolution was the problem of prisons. The late Imam [Khomeini] sent a number of people to investigate and one of them was Ayatollah Seyyed Jafar Karimi. One day he [Karimi] told me: "we went to Qezel Hesar prison and saw that in front of a room there was a black blanket; inside, it was so dark that one could not distinguish the day from the night." Then he said: "we encountered a girl who was eating her excrements. They had tortured her so much that she had lost her mind; but they were still keeping her in the prison." I was very upset and went to see Imam [Khomeini] to talk about these practices. I told him: "Sir, I have come here today to upset you with some depressing news. Today, we are keeping an insane girl in our prison as a political prisoner. Please think about this issue; it is embarrassing to have such prisons in the Islamic Republic" (Montazeri 2001:286).

In defense of its mass killings and tortures, the judiciary maintained that, in order to establish a perfect Islamic community, or *madīne-ye fāzeleh*, the government necessarily had to carry out "ethical" injunctions in accordance with the Islamic law. The judiciary formulated its charges against the opposition in such a way that killing and torture could be explained as serving God. Those who were opposed to the Islamic Republic were waging *harb* (war) against God, and individuals in such "wars" were *mufsed-e fi al-arz* (a corrupter on the earth) a legal category punishable by death. What went on in the Iranian judiciary during 1980s can perhaps be compared to Žižek's (1997) interpretation of Nazi Germany, where practices of killing and torture were not merely "formal" but carried out for some "higher Good." "The attitude of Nazi executioners" Žižek (1997:235) writes, was not "grounded in the principle of 'Do your

duty, irrespective of any consideration for the Good of the people!’—quite the opposite, it was grounded in the principle of ‘Do everything that is Good for your Fatherland even if you are compelled to commit what, in the abstract notion of ethical duty, look like horrible crimes’ Similarly, the rulings of the Islamic Republic’s Judiciary were not in violation of the basic Kantian precept of the “primacy of Duty over any notion of Good”: they depended on the very notion of Good, were “instrumentalized and relativized” for a “higher goal”: for establishing the *madine-ye fazeleh*, the utopian community.

In 1985, in order to normalize the legal system Ayatollah Montazeri argued that not all “corrupters” could be interpreted as “corrupters on the earth.” However, his attempt was not successful. He wrote:

We talked with Interior Ministry officials, but extremists or malicious people, particularly in the Ministry of Information, did not allow our program to be implemented. This issue has become a problem for the Islamic Republic. Survival of the system would depend on officials’ leniency toward dissidents combined with forgiveness. It is not right to file a case or set up a court for any trivial matter; this method cannot continue as similar practices could not continue under the previous regime (Montazeri 2000b:25).

In 1988, in retaliation against the Mojahedin’s military attack from the Iraqi front the Judiciary ordered the mass execution of its non-religious prisoners (Abrahamian 1999:209). The order was apparently given by Khomeini in a letter to the Judiciary. “In 19 July 1988,” Abrahamian (1999:209) writes, “the regime closed down prisons; slammed shut their gates; canceled scheduled visits and telephone calls; banned all newspapers; cleared the cells from radio and televisions; refused to accept letters, care packages, and even vital medicines; and forbade relatives from congregating outside of prison gate.” Panic-stricken families rushed to Qom to see Montazeri. According to Amnesty International, a total of 2,500 were executed on that day. Recent estimates place the figure around 12,000: “Some of the victims had been in prison since 1983. Some had completed their sentences. Some had not yet been tried. But almost all had been arrested for relatively minor offences. Those with serious charges had already been executed” (Abrahamian 1999:209).

On July 31, 1988, Ayatollah Montazeri wrote the following letter to Khomeini regarding the executions:

Regarding your order of execution of Monafeghin [derogatory term for Mojahedin] in prisons, the people may accept the killing of recent detainees [in armed conflicts] but those already in prison . . . especially the execution of those who have already been sentenced to prison terms, but not execution, dishonor all due judicial processes . . . and our Judiciary and intelligence are not flawless and with your recent decree innocent people are also being executed.

III. *Abjection*

Ayatollah Montazeri's transformation from a revolutionary cleric to a political dissident was completed on March 26, 1989, when Ayatollah Khomeini formally dismissed him as his successor. Although the Council of Experts had officially appointed Montazeri to the post, from early on there were indications that Montazeri's resistance to Khomeini's political programs and interpretations of the office of *velayat-i faghih* would eventually cost him his position. Ayatollah Montazeri's principles eventually brought him into direct ideological conflict with a number of powerful figures and institutions, including the Judiciary, the Hezbollah, and later Khomeini himself. The hierarchy was especially affronted by the public manner of Montazeri's comments and criticisms. In *Memoirs*, Montazeri reports that on several occasions he was approached by different political figures to convince him not to publicly criticize the government, "especially not to report negative news to the leader because the enemies of the revolution and oppositional groups would take advantage of any crisis" (Montazeri 2001). According to Montazeri, during one particular meeting, Ayatollah Khomeini personally asked him to carefully consider the contents of his speeches.

During 1988 and 1989, an inevitable ideological rift took shape between Khomeini and Montazeri when Montazeri's elected position was first reduced to "conditional" and was later completely removed in a letter from the Supreme Leader. Khomeini wrote:

You [Montazeri] no longer have the power of attorney on my behalf It breaks my heart and my chest is full of agonizing pain when I see that you, the fruit of my life's labor, are so ungrateful Since it has become clear that after me you are going to hand over this country, our dear Islamic revolution and the Muslim people of Iran, to liberals and through that channel to hypocrites, you are no longer eligible to succeed me as the legitimate leader of the state . . . do not interfere in political matters . . . I swear to God that from the start I was against choosing you as my successor (Khomeini, March 26, 1989).

Montazeri interpreted his dismissal as a rejection of his call for greater political tolerance in Iran. Montazeri defended his position in the following letter:

[The government's crimes] were not insignificant. Imagine, they were unjustly killing people and confiscating properties; I was aware of a situation where because of someone's arrogance they killed some kids. Are these [deeds] insignificant? In 27th lesson of *Nahj al-Balaghah* Imam Ali said that even an [unimportant] unjust act cannot be tolerated. Then we observe that a judge kills eight people for no reason, or confiscates properties with no justification. Can I, as a jurist and one of the founders of the revolution, keep quiet and say nothing? [Regarding prisoners' executions] I wrote two letters to Imam It seems that these two letters became the pretext to move against me Someone becomes our prisoner; but she/he should not be discriminated against, even if, according to these gentlemen, he is an enemy Imam Ali never condemned anyone to apostasy or cacophony but instead he would say: "These are our brothers who have rebelled against us." Now we simply accuse people with all kinds of transgressions (Montazeri 2000a:289-90; 343).

After 1989, the hierocracy's response to Montazeri's criticism was a general dismissal and denial. At this point, Montazeri seemed to have decided to completely cut himself off from the establishment. Although he continued to refer to Khomeini as the leader of the revolution and as an important political figure, Montazeri seemed to dismiss his position as the supreme jurist-consult. Montazeri wrote,

Despite his [Khomeini's] refinement, the late Imam never claimed that he was infallible. The leader, like other people, is not immune from mistakes and due to his responsibility, he should be open to respectful criticism. Criticism is something different from insult. Excessive veneration for a personality is against the spirit of Islam and is a type of paganism. Hero-worshipping of high-ranking authorities—eulogizing and depicting them in a halo of imagined radiance—is a political strategy so that nobody would dare to criticize them. This would make some people think that the degrees considered for holy prophets and infallible imams were similar to such exaggerated eulogies and repeated sycophancy. The more such lies are repeated the more people would be mistaken and take such lies for truth. In Islam, there are no red lines, save for God, the infallibles, the Koran, and the fundamentals of Islam. The officials are duty-bound to fight sycophancy and banish the sycophant as well as insolent people (Montazeri 2000b:26).

In November 1997, Montazeri delivered a lecture in Qom criticizing the hierocracy's interpretation of the doctrine of *velayat-e faqih*. Shortly after the lecture, the Ansar-e (helpers) Hezbollah ransacked Montazeri's office and residence. Montazeri was banned from teaching, and the court subjected him to house arrest. Many of Montazeri's relatives and supporters, including the leader of the Iran Freedom Movement, Ebrahim Yazdi, were detained for protesting against restrictions placed on Montazeri. In December 2000, Montazeri circumvented his house arrest and published his 600-page *Memoirs* on his website *Montazeri.ws*. Shortly after its publication, Montazeri's eldest son, his son-in-law, and three of their associates were arrested, and a court ordered the confiscation of all paper copies of the *Memoirs*. There was a series of public protests by several parliamentarians, the mayor of Tehran, and Najafabad's population for the cause of Montazeri's release. It took five years for the local court to order Montazeri's release from house arrest.

Today, Montazeri, as one of few senior jurists and *marja-e taqlids* in the country, continues to exert enduring influence over the faithful and the reformist faction, who are increasingly looking to Montazeri for moral and political leadership. Addressing his followers, Montazeri wrote:

The people will put up with the shortcomings but they will not tolerate discrimination or violation of their rights I was not concerned with my house arrest; what worries me is that devoted and committed revolutionaries, including some of the martyrs' families, are now being harassed, persecuted, and in some cases prosecuted, for my sake (Montazeri 2001b:25).

Resistance as Ethical Act

In the purification rite of Khomeini—his ousting of Montazeri as his heir—Montazeri was represented as abjected “defilement,” whose exclusion from the

hierocracy was necessary in order to “purify” the ruling circle of external elements. In the Kristevan conception, Montazeri represents the “abject” not only because he was dejected from the hierocracy—i.e., his exclusion from the hierocracy was imposed on him—but also because he was abjected—he wished it himself, to make his resistance and ethical stance clear. As Julia Kristeva (1982) points out, the abject himself wishes to be abjected because it is through abjection that he can exist at all. Montazeri’s abjection was the pinnacle of his ethical subjectivity because, through this act, he was able to position himself in a border context so that he could speak “truth” to power. The separation and identification of the subject for the Symbolic as abject is necessary not just because of the grotesqueness of the abject, as Mary Douglas (1966) suggests, but also because the abject brings into question and threatens the entire Symbolic order (Kristeva 1982:65).

Ironically, the purifying rite that abjected Montazeri simultaneously exalted him to an even more “sacred” position. “Because it is excluded as a possible object, asserted to be a non-object of desire, abominated as ab-ject, as abjection,” Kristeva argues, “filth becomes defilement and founds on the henceforth released side of the ‘self and clean’ the order that is thus only (and therefore, always already) sacred” (1982:65). Resistance of the Real persists as this act of exclusion, “but drifts over to more ‘secondary’ form such as transgression of the law” (Kristeva 1982:17). And this transgression of law is what Montazeri initially intended, or was compelled to accomplish, for it was only through resisting and transgressing the Symbolic that he could have maintained his ethical stance vis-à-vis the hierocracy. As Žižek points out, “the ethical act proper is a *transgression* of the legal norm—a transgression which, in contrast to a simple criminal violation, does not simply violate the legal norm. The *moral* law does not follow the Good—it generates a new shape of what counts as ‘Good’” (2001:170).

We can therefore theorize an “ethics of the Real” that goes beyond utilitarian ethics and cannot be grounded in ontology (Zupančič 2000:235). Religious ethics is essentially a branch of philosophy that deals with right and wrong in human behavior, fidelity and allegiance to a “Good,” believed to stem from revealed truth, from divine sources. In the Kantian utilitarian formulation, the form of ethical action gives the content of ethics: the will coincides with a moral law or a categorical imperative to act in such a way that one’s action will give a universal rule, describing what is ethical. But fidelity to a “Supreme Good” may become the basis for the worst kinds of nationalist, totalitarian, or fascist allegiances, leading to the obliteration of the ethical subject altogether. Žižek (1997:213) writes:

Argumentation is for the crowd of “ordinary people” who need the illusion that there are good and proper reasons for the orders they must obey, while the true secret, known only to the elite, is that the dogma of power is grounded only in itself . . . one should invert the standard pseudo-Freudian approach to Kant which endeavors to discern the secret “pathological” motivations beneath what appears to be an ethical act accomplished purely out of duty.

While utilitarian ethics and its notion of “Good” are deeply rooted in the Symbolic order, the Lacanian conception of ethics is articulated through subjects’ relation to traumatic and Real acts of resistance that cannot be articulated in the Symbolic

order. Lacanian ethics is different from all other theories of ethics since it “is grounded in reference to the Real, . . . the Real which is experienced in the encounter with the abyss of the Other’s desire . . .” (Žižek 1997:213). The ethics of the Real is therefore “an injunction which cannot be grounded in ontology—in so far as there is a crack in the ontological edifice of the universe” (Žižek 1997:213).

This approach allows for the theorization of deeply subjective experiences of bodily anxieties, traumas, and affects that fuel Real acts of resistance. The literature on suicide, the *nervos*, and ecstatic states suggest that bodies have the ability to become unbound from their states of “normal” socialization, subjection in such circumstances (Kleinman 1994; Scheper-Hughes 1993; Comaroff 1985; Ong 1987; Taussig 1992). Similarly, Ayatollah Montazeri’s traumatic experiences of injustice and cruelty during the Shah’s regime fueled his resistance against a post-revolutionary order he had helped to set up.

A synthesis of anthropological and psychoanalytic literature would allow a reworking of resistance theory to suggest—beyond structuralism and poststructuralism—the existence of a Real resistance which recognizes that from the inception of the subjection processes there is a part in an individual that cannot be successfully passed into as subject, an element that Dolar (1993:77) calls “pre-ideological and presubjective *materia prima*.” Although this remainder is refused or repudiated in the subjection process, as Butler (1992:190) points out, it continues to determine and define that subject, persisting as a kind of “defining negativity.” It is this negative void that fuels resistance and motivates subjects to risk life or, by means of which, claim certain “death” beyond the Symbolic order. A Real act of resistance opens up the possibility for articulating an ethics of the Real that is irreducible to a speech or performative act, which relies on a pre-established set of symbolic rules. Resistance of the Real is an already completed act, originating from that bit of the Real that always refuses the Symbolic.

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