

**Elaine Scarry Seminar, Thinking in Emergency
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Q: Given that this is such an interdisciplinary seminar and that Elaine Scarry's work has a focus on interdisciplinarity, and given also what you [Prof Scarry] were saying last night about habits and deliberation and the state of emergency that we're living in just now in the West, the effect that it has on the world, you feel it's your imperative as a citizen to draw attention to this state, but you do so through your training in English Literature and bring that to bear upon the scientific, political and legal work that you do, and I was wondering how you felt that your habits that you've acquired in your discipline, how you use them then to expose the fictions that surround us today?

ES: There's always this quotation that I love from Locke, from Locke's concept of understanding, where he says that the surest way to stop thinking is to only read in one field and to only talk to people in one field, so that it always seems to me that whatever field one is going to be in, you actually can do better work in that field by constantly reading in and talking with people in other fields. Obviously the university is set up to make that relatively easy, except that the more you stay, the more you get locked into small circles, so undergraduates get to move through the day going from maths at 11 o'clock to poetry at 1 o'clock to physics at 3 o'clock and think nothing of making these transitions, whereas by the time a student does graduate work, certainly by the time one is in a faculty, it gets harder and harder to ever be outside of a small pocket of your own discipline. So, it always seems to be important to me to be doing all of those things, and there are a couple of reasons for that, which I can come back to, that is, when Locke says that – that the surest way to stop thinking is to only read in one field – I think that that's not just a kind of general well-wishing to cross-disciplinary work, it's got a very literal basis, which is that if you're inside one discipline, it means that all the large framing questions are just taken as assumptions and you're never re-examining them, and when you're crossing boundaries, you're always having to cross over the threshold of those assumptions and test them again and also bring them to bear on the details inside.

And then the other thing is that errors rise up within any one discipline – it's not that the errors are that visible to people outside the discipline, it's just that when they come into the discipline they don't have all of the received wisdom, meaning they often don't have all the received errors, and so it often happens that people coming in just naively begin describing what they see, and people within the discipline will say, yeah actually, that's right, and, just to take one example of that – there are lots of examples one can take – but Amartya Sen, who is both in philosophy and economics, did one set of lectures on the oddity of the fact that so much economic writing for so long was simply assuming that our only motive is self-interest and every economic model was being built on this assumption of self-interest and he asked, first of all there's no evidence for that, and second of all, given that there's no evidence for that, why would you want to believe that? Were he not crossing so many boundaries in his own work, that might not have been a question he'd asked. Just to take an example from the field of literature, where I think people outside ask good questions; inside literature, people just take it for granted that human beings think fictionally, and we never say, how on earth do people think fictionally?, whereas someone like John Searle, who's not everyone's favourite philosopher, but nonetheless for me he has a very good essay, on the logical status of fictional discourse, and also certain people in cognitive psychology now, again some people whose work one might like some parts of and not others, but lots of people like Steven Pinker and so forth, are asking, how can we just walk outside the door and make such an easy distinction between thinking realistically and historically, and thinking fictionally?

Now, even from your question it is clear that there are lots of times when we think we're thinking accurately and historically and we're actually thinking fictionally, but at least we have to back up a step and appreciate how amazing it is that the human mind can just pick up one book that's history and another book that's fiction and do these two mental acts without having any trouble at all.

That said – I'll try not to answer these questions at such length, but I've just got a couple more

thing to say (laughter) – it is helpful, at least for me, to go across boundaries, and there are of course incredible disadvantages, we've been talking amongst ourselves often how much university is set up to credit [individual] disciplines and not just disciplines, but small subdivisions within disciplines and you have to be working on author X and so forth and it's harder to get funding if you're doing cross-disciplinary work, so lots of disadvantages, and you can make big mistakes and you always feel like an amateur, which I actually like (laughter), and I feel that universities are very generous, because if you're working on something, even in physics, if you go to a physicist and they read what you're written, they'll be very helpful.

That said, I do think literature has special things to offer, first, you're taught to read, day in and day out you're reading in details, I'm sure it's true here, but people in the United States always say that people with English training do very well if they go into Law School for example, or medical school, anything that requires being able to not miss the small details, because that's where most truths take place and most falsities get recorded, so being able to be a good reader is crucial.

And then, in terms of responsibility, in part I feel that because you're in literature you have a special responsibility, first because you don't have any exemption and everyone's got responsibility, whether you're a taxi driver or a painter or poet or a professor, you're not exempt. But then, beyond the general fact that no one's exempt, is the fact that if you've got research tools, if you had the time to develop research tools, then it means you've got a special obligation, since you do have the tools you need to spot and then read and back up the things that you see going on. I mean, David [Pascoe] mentioned yesterday, in introducing me, that part of the argument in my book *On Beauty and Being Just* is that beauty actually prepares you for being concerned about issues of justice, and maybe I should stop talking now, but I think that's true. In other words, I think that being submerged in the beauty of poetry or text in addition to training people in the acuity of reading also immerses you in things that are beautiful and therefore should be able to assist you in caring about justice.

In that little book *On Beauty and Being Just*, I actually outline three ways in which it [beauty] presses people, or ought to press people, to be concerned with justice. So, when people are talking about beauty, they're often talking about one of three sides of beauty: they're either talking about the beautiful object itself, or they're talking about the immediate response to beauty, and over time we have lots of those, like Plato in the *Symposium* talks about a man seeing a beautiful boy and breaking into a sweat and he's falling all over himself and his shoulder blades itch because he's growing feathers and wings (laughter), and then a third side of beauty which is the kind of slightly delayed response, the way in which beauty promises people to create, and that again has been registered, at least in Plato and probably in other cultures too, that when you see a beautiful person it gives rise to the desire to create new life, to have children, but it also gives rise to the desire to create philosophic treatises, poems, paintings, anything, to bring a new thing into the world, and Wittgenstein says that what is it that happens if you stand in the midst of a beautiful cathedral or a beautiful flower, when the eye sees something beautiful, the hand wants to draw it, so there's this immediate wish to duplicate it.

So, how do to these three sites prompts us to justice? Well, on the level of the beautiful object itself, one example I use is to take the symmetry of beautiful things and the way in which symmetry in beauty actually is precocious of, or anticipates our ability to bring about symmetry in the realm of justice. John Rawls, a contemporary theorist, has perhaps the most widely known contemporary theory of justice, he says that fairness entails a symmetry of all our relations to one another, and, you know, the symmetry in poetic meter, in paintings, in many things you can name, does involve that principle of symmetry. So that would be an example of attributes within the object that, even sometimes centuries before they happened in the realm of justice, become visible in the realm of the aesthetic. And then as a second side, the reaction, to me, the best reactions come from two mid-twentieth century female philosophers, Iris Murdoch and Simone Weil, both of them talk about the kind of 'un-selfing' that occurs when you're in the presence of something beautiful, for Simone Weil, she calls it a 'radical decentring', but Murdoch says, here I am, being self-absorbed, thinking about how I'm not being treated right in the world and I don't have my rightful place in the world and then suddenly a beautiful bird lifts off the ground, and I just undergo this 'un-selfing', where suddenly I'm secondary, I'm on the margin and just willingly be happily on the margin to see this beautiful thing, and she's writing this in a book called *The Sovereignty of the Good*, and there's a point where she's asking, what is it that causes people to be good? She says, I'm not asking about what is it that makes them able to talk about being good, but what actually leads them to be good? And she says that of everything she can think of, the thing that does it most is the thing called beauty.

Now, I refer to it in this book as the 'state of opiated adjacency' (laughter), because I think there are lots of things in the world that make us feel acute pleasure and there are lots of things in the world that make us feel marginal or sidelined or off-centre, but there are very few things that do those two things at once, that both give you an acute sense of pleasure the very moment that you are being pushed to the sidelines and you're no longer centre-stage. So that would be an example of the way in which the second side of beauty ought to be able to press us towards a concern with justice.

And then, the third way, of creation, is just that Hume made this distinction between natural virtues and artificial virtues and said that, if you're talking about a natural virtue, you actually need to show that it has a practical outcome that's good. You have to show that maternal affection actually leads to better care for the child and so forth. But he says that if you're talking about artificial virtue, you don't need to show that it has any practical outcome because if there's anything that puts us in touch with our artefactual ability, our ability to create, is already a good thing.

And that's basically what I'm saying here, that beauty can either be naturally occurring, as in a landscape, or artificially occurring, as in a made building, but justice is always artificially, or artefactually occurring; it is always something we have to bring about by human agency and design, so anything that activates our desire to create, or just reminds us that we can create, and by creating I don't necessarily mean that we can do a drawing of the level of Leonardo Da Vinci, I really just mean even the simple act of holding a camera without being a professional photographer to take a picture of it, or even only telling someone, what people have been doing here, what places I should go to on the West Coast, it's a verbal act replicating the beauty of a thing in a sentence so that it gets passed on and distributed to more and more people, and that kind of urge towards distributing things out historically went by different names; like theologically that interest in plenitude we make a distinction between *eros* and *caritas* and distributing things out or the urge for something that is infinite, which is, in a modern vocabulary, the impulse for there to be distribution is very much bound up with creation.

So that's just a thumbnail sketch of the way in which getting to be in the present and work with beautiful things then just gives you the ground on which to stand in order to recognise when something isn't right in the world. I should say that Eunice Buchanan was speaking to me yesterday about whether we could use the word 'ugly' for a lecture, and I do think one can use that word that way, I should say that in my book I actually don't use the word 'ugly' because normally it's not usually an immediately coherent word for me, and for me, the most direct opposite word for beauty is injury. In fact, injury is the word that's opposite to injustice, they etymologically are the same word, and I think the opposite of beauty is again the word injury, and I think that all this work that has been done in the Nineties, in biology, the fact that wasps and butterflies and birds all have a preference for symmetry in their chosen mates over anything else, they think has to do with some kind of spotting of invulnerability to injury. There's lot to say about injury as an opposite to beauty, and it's I think an important starting place, because, whatever else there is, you want the human species to be opposed to injury. Let's say I suddenly lose the ability to walk. What in opposition injury means is that the first obligation is to try and repair my legs. If we can't repair my legs, and I'm not going to be able to walk, then we're learned to see it as no-injury and we make buildings with ramps and make buses with ramps and we actually re-design the city so that it's no longer an injury not to be able to walk. But whatever else there is, your starting point is the no-injury rule and that's why things such as wars are such a problem.

Just on the basis of etymology, one other quick thing to note is that both beauty and justice have the word 'fair' as synonym. I had kind of assumed that the word 'fair' in the realm of justice might have to be with the agricultural fair, having to do with trading and so on, but it turns out, if you check any of the etymological dictionaries, that the word 'fair' is actually from the aesthetic word 'loveliness of countenance' or 'fit', and if you trace all the etymologies back you come up with the presence of the word 'pact', or 'agreement' inside the words for 'fit' and 'fair', but you have to go through a number of transformations before you get to that particular point.

Q: In *La Nausee*, Sartre goes into the ugliness, actually this is injury at the visceral level, where the hero is feeling nausea he wants to vomit when he sees the hand of a paedophile holding the hand of a little boy, he wants to be sick, ugliness producing injury

ES: Yeah, I think it's important in that description that there is a visceral reaction to it. You know, one thing that complicates a lot of the discussion of the aesthetic – have I gotten too far away from

your question? [No] – even in the period when, though we kept studying beautiful things, poems and stories and texts, the vocabulary of beauty wasn't explicitly being used, it certainly wasn't being used in the United States, and I've since learned that that was often true in other countries as well, and it wasn't just true in the universities, it was true in the museums, I've had contact since with lots of museum directors and everybody felt they were under this taboo, and that meant that the one realm that was still using the vocabulary was advertising. I have no quarrel with advertisers for using the vocabulary of beauty, the only thing is that it tells everyone that if you see something beautiful, you should buy it, whereas when this vocabulary over many centuries and many philosophers and many writers, when it was intact, it was widely understood that when you see something beautiful it should immediately give rise to the feeling of wanting to educate yourself or the feeling of trying to repair the injuries of the world.

Therefore, sometimes when things are beautiful, they get critiqued, for example the photographs of Sebastiao Salgado's migration, those were gorgeous photographs often involving 200,000 people in one photograph, large populations on the move, often in refugee camps; the photographs, maybe as tall and wide as this table, are just visually beautiful. They were from various countries, Europe and Africa and South America, places where there are lots of displaced persons, and so the photographs might have, say, a plain in Africa and there are just swarms of people and there are kind of gauzy tents catching the evening light, so these tents are just radiant and the people look otherworldly, so it's unbelievably beautiful, and people in a number of countries would critique these photographs and say, how can you possibly use beauty for bringing knowledge about these migrations? Well, there again, the confusion is only happening because we're so used to thinking that if we see something beautiful to buy it, but if it were intact, if Rilke's dictum that if you see something beautiful you have to change your life were in place, you would understand what's happening to you when you look at those photographs. 'I didn't know this, I've got to change my life, this is not the way things should be'. The odd thing about the criticisms of him is that most people criticising him would agree that they hadn't, before seeing them, given a second thought, had no visual image of what it looked like to see 400,000 people moving across a plain.

And, you know, people in the medical profession make this distinction between visual compassion and statistical compassion, and though we're not very good at narrative compassion, we know we need a lot of work to really be compassionate with one another or with fictional characters or with historical characters, but we're much better with narrative compassion when there's a single hero or heroine, or two heroines or three heroes, when what's actually needed in the world is statistical compassion and comprehending what it means to say, there are 400,000 people moving from point A to point B, or to read unemployment figures and understand what that might mean. Often, newspapers will report the statistical fact, but then when they do their Op-Ed pieces, or their quotes of stories, they're actually doing narrative stories from the point of view of the winners rather than the losers so that you're being asked to carry out the acts of narrative compassion, and some compassion is no doubt deserved on all sides of struggles, but we very often have a split going on.

Q: I imagine that one of the problems around the conjunction between beauty and justice is not the definition of beauty, but the grounding for the recognition of beauty, in other words, is there something innate, I imagine the cognitive scientists are doing very interesting work on that, and there's also the Aristotelian sense in which a particular kind of closure or symmetry is a kind of an aesthetic view of the world at its most basic and human and therapeutic, but, at the same time, to what extent a beautiful object, let's say a cathedral, and the response to it, doesn't involve an element of cultural consent or training, in other words, you have a trained eye, you're a trained reader, you're a trained viewer of objects, you're a trained spectator, I mean taste and aesthetic value might not even come into it, though I'm sure at some point it has a bearing, but it's a bit like habit, I mean, what's the sort of ground zero of that?

ES: Ok, so definitely I think that one can be trained into, and even mis-trained, which was present in your description too, I mean the assumption of university or a museum or a park, is that, as I was saying yesterday, or as Dewey was saying about colour, that it takes constant training to get to be a colourist like Matisse, or even a viewer like Matisse, it can take huge amounts of training and we study in universities, or teach in universities and read the writings of our colleagues and other people in part because it is educable, but the starting point, the ground zero, is the fact that there is this intuitive ability to see beauty, and one of the things, at least in the United States, that would be used as an argument against beauty – first of all, let me say that I think a lot of the problems with beauty come from the belief that there must be one right way to seeing beauty, and

philosophers who argue that often have to struggle because it's simply not true – (laughter) but the plurality of beauty is there in so many things, for example, people in worrying about beauty would say, well, what about the fact that people from different countries have different objects of beauty? Now, I think that there are some objects of beauty that all people hold in common, I don't believe that there's any culture that hasn't noticed the wind or hasn't noticed sunrise, or hasn't noticed the beauty of children's faces, but even if you could show me that there are some places where that hasn't been remarked on, the fact that people have many different objects is not at all a problem for me, I mean, everybody chooses their own mate, and we don't expect that everybody chooses the same one mate, that would be a disaster (laughter), and we don't even expect that everybody's going to live in the same house, although that would be much easier to do than have the same mate, but if everyone had the same house design, that would seem really oppressive, and I think that that kind of basic plurality of beauty anticipates by many, many centuries, our ability, in the political sphere, to say one person, one vote.

In other words, in the aesthetic realm, or political realm, it's not that there isn't some beautiful object that's more beautiful than another, or some political candidate that's better than another, but it's just that the decision about that is up to the individual. And we can persuade each other and educate each other, but the bottom line is that it is up to the individual mind to choose their own mate and their own tablecloth etc. Not understanding that comes from thinking that the end point of beauty is just the object rather than the effect on the person, so that one of the things I think is that we often feel that something only looked beautiful for three years, or three seconds, like you saw a tree and looked at it and looked at it a little bit more and then you think, actually, it's not all that remarkable so you go on with your walk, now, to me, the three second, or three-year beautiful thing is contributing to the work of the beautiful as the enduringly beautiful objects like sunrise and the wind, because they're always producing this very plastic response from people, and therefore the fact that we educate each other into and out of certain objects, and what we loved yesterday and what we might stop loving, or we might think, my God, I've passed this building every day for ten years and I've never noticed it and then suddenly notice it, that seems to me a very good thing and not at all impairing.

By the way, I mentioned the idea that one of the things that often was taken against beauty was the fact that people in different countries would have different conceptions of what it was to be a beautiful person or what the best plants were and so forth, and the other argument, a confused argument, was made that the only people that cared about beauty were middle-class. I think that's deeply wrong, I didn't even address it in my book because I just figured that three seconds of experience is all you need to understand that people who are very poor or people who are very rich care as much about beauty. They may not have as much time to think about beauty, and that's an argument for why money and time need to be better distributed, not an argument against beauty, but the idea that migrant agricultural workers don't notice their lover's face or don't notice the fabric of the headscarf is manifestly untrue.

Q: I'd like to link the idea of beauty with tyranny and with what Vassiliki [Kolocotroni] called 'ground zero' and the awful beauty of, for example, atomic bomb explosions and the pictures taken of nuclear devices exploding on Pacific islands – what do you think the purpose of those are?

ES: The pictures of the Pacific tests, the pictures that I have in my mind of the Pacific tests are maybe not the ones you're thinking of – you mean the cloud bursts and so forth – whereas there's of course the complete knowledge of the Pacific tests is what was done to the Marshall islands and the island of Bikini and a number of other islands; the 65 nuclear explosions that have made one whole population lose their island and have destroyed the undersea population for 50 years in that region. We talk in literature, rightly, we talk about colonialism, but the purest form of colonialism is thinking that you can test your nuclear weapons in the Marshall islands and meet with a few representatives every year from those islands and not mention to the people of the home country, the United States, what actually is the process of doing that. So to me, those Pacific tests are very much bound up with manifest injury and the very opposite of beauty. The clouds are a spectacular release of force, and the pictures are often awe-inspiring, and one of the things I talk a little about in the book, and lots of other people have probably talked about it, this subdivision of the whole aesthetic realm into the beautiful and the sublime that happened with Burke and Kant, and, probably through no fault of theirs, ended up making the two realms severed somewhat, because during this whole time when beauty stopped being talked about in the vocabulary, the sublime kept being talked about, and those images of the clouds were even sometimes talked about as the nuclear sublime.

As I said, I don't mean that Burke and Kant intended this to be an outcome, that what had been this very continuous aesthetic realm, and I know there were precedents, of course, for the sublime in Longinus and so forth, but it meant that the ethical intactness of the beautiful got severed away from it, because the easiest litany of attributes, or the easiest recitation of attributes that fall into those two categories for me come in the early work by Kant, *Observations on the Beautiful and the Sublime*, where the beautiful is flowers whereas the sublime is a grand oak tree and the beautiful, he actually has national divisions which I can never hold on to, which one's beautiful and which one's sublime, but the beautiful is female, the sublime is male, and one can go on and on, so the beautiful severed from the sublime comes to be the diminutive, the safe, the pleasing, whereas the sublime keeps getting connected to the metaphysical and the otherworldly and becomes disconnected from the texture of everyday ethical life. That seems to me to be an incredible danger; on one level I might simply answer Fabienne's question by saying, the cloud pictures are the first few seconds of what happens, to read, if you haven't yet read it, ... Ibusi, the Japanese novelist, for a description of what happened in Hiroshima and it's done without a word of blame to the United States, without a word of histrionics; it's just a recitation of what happened in those days.

Your question has a deep counterpart, and that is that when this one author tried to look at how people who live in the one final assembly in the United States, where the nuclear weapons go for the final assembly, which is in a town in Texas, how do they live with the fact that they're making these things. What she found was that there is this theological sublime that really is terrifying, because, this idea, you probably don't have an equivalent for it here, but you've certainly heard of it, the rapture, and the people that she interviewed all believed that there was going to be this moment of the rapture, I don't know if it's exactly a second coming of Christ, or, I mean you've heard about all these novels in the United States that are 'left behind', where suddenly there's a proof that the ones who are sitting here have gone to heaven or is it the ones who are left behind have gone to heaven – I don't know – but these people in this town all believed in Armageddon and rapture and what was going to be the vehicle of the rapture – nuclear weapons.

Your question in part, though I can say that it's in part because of the splitting off of the beautiful and the sublime, that somehow the beautiful can be enlisted into almost anything. Anything good can be enlisted into something very dangerous, and that would be a major example of it. So the imperilling part of it is not just a momentary reaction of looking at the poster of the mushroom cloud, and if you've seen the same poster as I have, it often involves these military people standing there with sunglasses on and looking at it, and many of them are now damaged or sick from having looked at that.

Q: it seems to me that there is still a distinction between the sublime and the beautiful, but we now call the sublime the spectacular, and thinking possibly of the events of September 11, and the comment by Stockhausen that it was the ultimate work of art, then the work done, for example, by Slavoj Žižek or Jean Baudrillard and the idea of spectacle as opposed to any ethical considerations, but still brought into the realm of aesthetic consideration ?

ES: Of course in the United States for a while, one couldn't even say – do you remember how much trouble Susan Sontag got into for saying that courage was needed by the pilots who did that, or the fact that it was a brilliant success, I mean, it's still very sad that on 9/11 the Pentagon couldn't defend the Pentagon, let alone the rest of the country – it has barely been spoken aloud. Even though there's been lots of talk about not having been prepared and so on, the true failure of it has not really been very much spoken about. The Defence Department, it had billions of dollars to let its own building be attacked. There are people, right after 9/11, some people in France reported, they didn't really believe that an airplane had hit the Pentagon, and in the United States you can now find lots of accounts saying, this really can't be, there are no wings, etc etc. It's almost inconceivable that the worst thing the Pentagon could face is that somebody could run an airplane into the Pentagon, it's much better if they'd done it with one of their own missiles.

The counterpart is the spectacle itself, and gradually over a number of years, I'm not sure how often I've heard people reciting the thing about how it was a great work of art or a great spectacle, because again, the injuries are too recent in everyone's mind in the United States to repeat that too much, but, for example Seamus Heaney and the translation of the poem "Horatian Ode", that he translates [as] "Anything Can Happen", and it's about how usually when Apollo strikes it's out of a big thundercloud, but he can even come out of the blue – it's a fantastic description of the day of 9/11, where he's clearly giving the [impression that this is]... an act of Apollo to do this and so it's crediting the mighty power that took place and then Amnesty International had people from many

different countries translate the poem into many different languages; it's a little rhyme called Anything Can Happen and it's about 9/11. I would say that if you just stood up and said that the day was spectacular, you'd still even now, years later, get attacked. Seamus Heaney, because he's so revered, can stand up and say a poem like that and you look around the audience and it's accepted because it's Seamus Heaney, but there are not many people who could stand there and say that about it. But what it does is make visible the fact that our own power in the United States, which is, of course, also an opiate – beauty is an unusual opiate in that you're willing to get prepared for fairness by standing on the sidelines – but the usual opiate is the power opiate. So, yes, 9/11 was a great spectacle and it can remind us that our own swoon of pleasure and the great military power of the United States is something that needs to be critiqued: this is what power looks like; well, that's [i.e. terrorist attack] also what power looks like.

But, again, there's not a lot of symmetrical thinking that we try on, I mean, I imagined yesterday that during hundreds of days of discussion about nuclear weapons in Iraq, hypothetical, real, unreal, and now in Iran, in North Korea, people won't say, in our own editorials – in fact, I published an editorial, when the Iraq war went on, in the Boston Globe, about this incapacity for reciprocal thinking and the number of weapons we have and the number that Iraq supposedly, without evidence, had, and the only people who seemed to have read the editorial, I know everybody read it, I mean everybody in the small world of the Boston Globe, but the people who would say to me, that was a good editorial were Syrian Americans, Lebanese Americans, everybody else was like, I didn't even see that; it doesn't even register what we have. I mentioned yesterday the figure that each of our Ohio class submarines is 4,000 Hiroshima bombs, well, the other figure for the Ohio class submarines is that they're 8 times the total blast power of World War II; each Ohio class submarine has 8 times the total blast power of Hiroshima, Nagasaki, the 67 Japanese cities we firebombed, all the German cities we firebombed, all the cities bombed in Coventry in England, all the battle fire and the trenches, on and on and on, multiply that by 8 and that's what each of those Ohio class submarines are and we're outraged that Iraq or Iran or North Korea could consider having one of those things.

Q: Have you actually found out why they've got this amount of power, what would the Pentagon's explanation for that be?

ES: Well, you know it came about during the arms race, they talk a lot and I think if you ask most Americans about our nuclear arsenal, they would say, well, we've been reducing it; when we do get rid of the ageing missiles, and there's much to-do about getting rid of those missiles, and nobody knows this other story, that these Ohio – and by the way, this isn't a controversial story, it's not like a conspiracy theory, it's a documented thing that you can look up on the submarines, the record is there, their christening day and so forth – but that was simply not known. There's no way we've reduced our arsenal except by some technical arithmetic count where you got rid of these 5000 land based missiles and just increased the amount of Ohio-class submarines.

Why do they do it? Well, I mean, it sounds like such jargon to talk about the military-industrial complex, since childhood I've heard about that complex, it was Eisenhower who critiqued it, and many other people, decade after decade said 'it's a problem', and you know, not until I started doing those airplane pieces did I find out how literal the problem is. Because what you find out if you're studying, let's say, a piece of radar is that a billion dollars will go into this piece of radar and by the end of the year they will have decided that it's outmoded and they need to start over. They will therefore get another 2 billion contract and no-one will critique the mistake they made in the first one because that's under security, so just the simplest sunshine principle, everyone understands that you can't keep yourself straight, even if you're a good person, you can't keep yourself straight, if you're never having your work critiqued by somebody or never showing it to somebody, let alone critique, just imagining and audience reading it, but these people are making these things without imagining an audience looking at what they've done, and it's just a spiralling loop of contracts.

I don't know, we do have this miracle, I don't know if you saw on the news last night that these two villains from Enron got heavy sentences, and that is a miracle, I mean nobody in the United States would have put money down on the idea that they were going to go to jail, I mean they're not in jail yet, but that they even got the sentence is incredible; they, of course, are in the energy business, not in the military business, there's just no oversight in the military. And so I think that has a lot to do with it, it's on an economic trajectory and nobody can stop it, nobody can intervene. I once read this figure, and a mathematician told me it sounded accurate, that a million dollars is a stack of hundred dollar bills eleven inches high; a billion dollars is a stack of hundred dollar bills as high as

the Washington Monument. So there's a big difference between million and billion (laughter) and yet you can see these figures just roll off the tongue, for just a single piece of radar equipment, and now we're building all these things that will allow injury without even having a pilot, and often the critique for it comes from inside the military, where they don't want pilotless planes flying into areas and dropping bombs.

By the way, just so I don't lose sight of this, Bush has made arrangements for a new nuclear submarine, a new land-based nuclear weapon and a new airplane delivery nuclear weapon system. One is supposed to be done in 2020, one in 2030 and one in 2040 and I can't remember which is which, but these plans are constantly underway for continuing this far into the future; and people will sometimes say, well, the reason we built those Ohio-class submarines is that the contract had already been signed, and therefore the Berlin Wall opened but we had to fulfil the contract. Well, we have lots of contracts signed, say for educating the kids in public schools, and we're willing to break those contracts in a minute, so it doesn't make sense, and in any event we've got new contracts going.

Q: I wanted to ask you from yesterday's talk, your thesis about emergency thinking, would be very attractive to people like [Richard] Dawkins and Daniel Dennet. I wonder what your thoughts would be on this; I'll tell you exactly what I mean, I mean that these guys put forward a thesis that the biological basis of humans is very, very similar to that of animals so we've been produced, through the evolutionary process, in the same way. Some of these guys may like your conclusion yesterday, that if we practise what to do in an emergency then we can do it better, we can do it more coherently, and then they would cite situations in the animal kingdom where animals effectively cope with critical situations for their own wellbeing in this way, with habitual patterns of behaviour.

ES: Yes.

Q: Would you like that interpretation, or, if you wouldn't like it, how would you defend yourself against it?

ES: I'd have to think a lot about how it would interact with their work, and you know what Dennet says in *Elbow Room* would correspond a lot, that you want to increase the margin in which you can still operate, and that would go along with what James Fountain said about a three year old still having to take a lot of time to tie her shoelaces and getting her sweater buttoned, and you want to learn to just make that very fast, so that you increase the amount of space you have to do another thing; and that's what an emergency doctor does, that's what a pilot does, he's so good that he's widening the envelope in which he can manoeuvre, and you know probably I would agree with that.

And by the way, I always love finding out that animals can do all the things we can do, so the fact that bower birds, as David Attenborough shows in his *Life of Birds*, they're actually creating a gallery and they're not even giving their mate food or anything – and as birds go, they're plain-looking, they don't have a lot of colourful plumage – they're making a gallery, and turning over all these beautiful flowers and stones, and inviting their mate in, and I like that, so if it turns out we had something similar in emergency procedures, I would like that.

But here's my general answer to you, and it is that I find that if you all the time track out an idea that seems to you right, you are going to not like the company you're in and you can never let that be a reason for not doing it. The stuff on the right to bear arms, sometimes I find myself at conferences and I'm standing there with someone from the Michigan Militia, trying to keep in my mind exactly what it is that differentiates me, you know (laughter). But the fact is that the right isn't always wrong, not that that applies to [the Michigan Militia], there are partial truths coming from a number of sides and one should never back off an idea because one can see that you're going to be in unpleasant company.

Q: Surely...these guys [Dennet et al] are into self-fulfilling prophecies, and that's very dangerous for a thinker to do...we are totally different, we are different, from an animal, a bat, or a mosquito, or a spider, and what these guys are trying to do is say that we have some common basis and that works like a self-fulfilling prophecy, and that's extremely dangerous, biologically and metaphysically and sociologically. So that's why I don't like it, it's not something personal, it's just that their philosophical output is dubious and they're making a fortune out of it and the issue is, how to avoid these self-fulfilling prophecies so that we know exactly what we're talking about?

ES: I do know what you mean, and the only thing is that you would be doing a form of self-fulfilling prophecy if you said that 'what I want to do is end up at position 'not X'

Q: I agree, but at least we need to acknowledge that there's some kind of proof needed independent of your suppositions, and these guys don't do that, you know what I mean?

ES: Yes. I don't think by the way, they're making [a fortune], they look as poor as the rest of us tramping around (laughter)

Q: OK, but claiming, you see, that in an emergency situation we work better if we're habituated, you propose certain other capacities, I mean you said something very interesting yesterday about the relation between creative thinking and how habituated action limits the capacity for creative thinking, and the example you used was very well put, about the aeroplane and the guys who threw the aeroplane down, the civilians who threw the airplane down, and experience will prove that they did not act according to a preplanned schedule of action. That being so, you need to find some kind of formula where habituated action doesn't foreclose on creative spontaneity?

ES: Well here's what I think: right after 9/11 I wrote a piece that became a little book called *Who Defended the Country?* And it was about the fact that it was the citizens who defended the country and not the military, and it originally appeared in a journal called *Boston Review* under the title "[Citizenship in Emergency](#)". When the *Boston Review* does pieces like that, it sometimes has people write in and will publish those responses at the same time; so this was my essay on who defended the country, saying 'don't we have to conclude something, from the fact that our gazillion dollar military couldn't do this and the citizens could and shouldn't we be talking about this?'. Eight people then wrote saying why I was wrong (laughter), eloquent, articulate people.

But actually what I argued was that both sets of people were acting according to habit, the citizens on Flight 93 were working out of egalitarian habit, where the other people were working on this hierarchical structure that was just imperilling, and since the 9/11 Commission report where a lot more detail has been revealed about what is going on between the FAA and the military, that is even more true. Let me just give you an example; as you probably know, the people on Flight 93 called the people they loved, and the people on the ground are of course telling them about the World Trade Towers: because we believe in two-way information, that's what equality is. In the military and the FAA, they did not tell the air controllers in Indiana, who are looking at Flight 93 disappear from their screen, that the World Trade Towers had been hit. You knew by that time that the World Trade Towers had been hit; I was in Italy that day, and I knew that the Towers had been hit. But the FAA controllers, who of course are not watching television, did not know that the World Trade Towers had been hit, so of course when they see Flight 93 disappear from the screen, they think that it might have crashed and they're trying to track it continuing going west. They don't even think that it could have turned around and gone east, because of this hierarchical thinking, there's a big delay at that time.

And, you know, I could just multiply this... by the way, the plane that went into the Pentagon had a passenger who made a phone call, Barbara Olson, she called her husband Ted Olson, who became Solicitor General, he was in the Department of Justice. Do you think that Ted Olson told Barbara Olson about the World Trade Towers? I don't want to put the burden on any one person's shoulders, and a friend of Ted Olson's is cited in a newspaper account [saying] that he did tell her. I don't think so, because in any other case where it turns out that people were getting that news, for example on Flight 93, as each person is told they turn to their neighbour and say "My wife is saying the Trade Towers..." and [for example] Vassiliki turns to her contact and says "The person here is saying the World Trade Towers has been hit, is that true?".."Yes, its true". So everybody is testing each other's information by their own phone calls, whereas there's no report [regarding] Barbara Olson, who called Ted Olson several times, of that information getting out.

I mentioned yesterday, even conservatively there's 55 minutes during which that plane is moving towards the Pentagon, and the Pentagon doesn't, can't, do anything and they have a caller onboard saying that it's been hijacked. I mean, we're talking all the time about how we're going to get these incoming missiles, how to differentiate the decoys, and there's not going to be someone sitting on the incoming missile saying "It's an incoming missile"(laughter), so that's why I say that there's this whole kind of [thing] about the military because for the sake of speed you have to be able to do this.

The passengers on the plane debate amongst themselves what they're going to do and they take a vote, it's unbelievable, it's like a small-town meeting, before they do this, because they have to know their chances of coming back from that are not very high. And meanwhile you've got this lack of information... The White House and the military, the Pentagon, have from the outset said that the passengers on Flight 93 did do what they seem to be doing, and all the people on the ground said so too, they left the phone lines open, they could hear them, running and so on...so, there were lots of...in other words, it would have been hard for the White House and the Pentagon to lie about it. But because they didn't release the tapes at first, it allowed many Americans to say, well perhaps they didn't do it, maybe it was shot down. What the 9/11 Commission report – and I don't think, you know one of the things I argue in the book *Who Defended the Country?* is that it's not just that the citizens on Flight 93 could do it and these other people, the military, couldn't, it's that the military shouldn't because if you shoot down a plane from outside you don't know for sure if you've got the right plane, in fact they were following some of the wrong planes that day, they were not following Flight 77 that went into the Pentagon and so it's better that it's done from the inside, also the people ought to get to decide whether they want to give up their lives for the rest of the country, which is what they did, it shouldn't be that a pilot is – but in any event, when later the 9/11 Commission report came out they actually demolished the idea that the military...you know, the military came out and said, yes, the passengers did it, and if they hadn't we would have; the 9/11 Commission said 'not a chance'. Not a chance. They do the timetable, and they say the first permission to shoot down order came at Time X, and Flight 93 is Time Y minutes away from Washington – I can't now recreate the exact minutes – and there's not a chance, it's simply not within the radius of their power to have done it, given that they were sometimes receiving orders but not passing them along, they've got teleconferencing going on, in the basement of the White House closed loops that have nothing to do with anything, Rumsfeld is telling people – and again this is in the 9/11 Commission report – that they shot down several planes that are hijacked, and again it's just completely untrue, and somebody else high up in the Pentagon says "well, I actually don't think so".

Meanwhile, something that no one in the United States will even say aloud is that President Bush stopped off at an Air Force base in Nebraska, even in the 9/11 commission report they say 'why did they choose that Air Force base?'; well, 'they chose it because it could accommodate 50 people overnight' – as though most airbases couldn't accommodate 50 people – 'it has good communication apparatus' – and what everyone thinks is that that must mean there's teleconferencing going on in the bunkers in the basement of the White House – well, Offutt Air Force base, if you look at the New York Times article about Offutt Air Force base prior to 9/11, that is the nuclear nerve point for the United States, both for state-directed nuclear weapons and for terrorist-directed nuclear weapons and that's language from the 1991 New York Times. The reason Bush stopped there, I would suggest, is because that solution, as well as every other solution, was on that table that day, even though we have no idea where such things would go, and not just things Bush has said since that time have made it so. That's just to say that on this day, the military acted out of this habit, the democratic and egalitarian citizens acted out of their habit, and one of them was not only more morally and legally right, one of them was fast, and agile, and nimble and the other just couldn't do it.

Q: And the proof that you're right is clearly that they're making a film about Flight 93 and not about any of the others.

Q: The point I was going to make about that is that they're making a film about Flight 93, and you would also look at a film like *Independence Day*, where the President happens to be a maverick who does fight with the citizenry and gains the advice of the bureaucracy. Hollywood always creates a fantasy of what might be, which is quite the opposite of the way the military-industrial complex actually works.

ES: Yes, believe it or not I haven't yet seen it and now you're making me realise I must, because that's an important description and you know, I would say that even if they made a film, and they won't about Flight 77 going into the Pentagon, what they won't do is put the two side by side and say, let's look at the time line of these two and who's acting in what way and so the question will never be raised.

Q: I'd like to ask you a question about the life sentence as opposed to the death penalty of Moussaoui because it was the citizens doing the judging and they weren't screaming for blood, as

opposed to the politicians. And do you think Moussaoui is some sort of hostage to this state of emergency – what do you think about this?

ES: I have followed more the details of the cases of the many who are held without charges and are being tortured more than I've followed the Moussaoui case, so I would defer to the jury in that case. I would say that they might have made the right assessment on that, but can you fill in more on the...

Q: The actual trial? No, I just know that they interviewed people afterwards, people from the street, and some people were upset that he didn't get the death penalty because they thought that if this guy isn't getting it, well, what justifies the death penalty -

ES: Right.

Q: and other people were saying "this is good" because it shows we are putting humane considerations above the thirst for retaliation.

ES: Right. There again, you would contrast, as you did in your description, the citizens' impulses with some of the professional impulses. And by the way, I don't mean here to indict the military because at every point the military is often acting as a locus of dissent in the United States, starting with the fact that it was Private Darby in Abu-Ghraib who turned in the photographs; without that, no matter how many reports you had, American would never have heard about it, or the world would never have heard about it, and that actually was a life-risk-taking event. Not necessarily that another soldier would have shot him in the back, although to tell you the truth I'm surprised he's still alive, but if you're a soldier you have to count not just on the fact that somebody won't shoot you in the back but that if you're under fire your comrades are going to cover for you and someone like that usually doesn't get covered. But there have been lots of military people, including most recently the six retired Generals who have said that Rumsfeld ought to step down immediately, so I don't mean to say anything about the military.

But we know that not only have many people been tortured but there's even been these assassinations; I mentioned briefly in my talk yesterday that the military handbook lists only a small number of things that you're not allowed to do in war, and those are considered war crimes according to these handbooks and they're telling the soldiers if you do these things, no-one will be able to exonerate you from war crimes, these are considered acts of treachery, and perfidy and every single one that they list we've done including that you're not allowed to assassinate. Now, we could disagree and say maybe there shouldn't be a rule against assassinating leaders, maybe someone should be allowed to assassinate Hitler etcetera, but that is the rule and so you have to understand that if you are going to assassinate Hitler you may be giving your life to do it, and presumably someone may think it's worth their life to do it. But we've been assassinating people, and sometimes innocent people get killed in these assassinations, they're sometimes done with unmanned predator missiles, and so that's without a trial, without deliberation, it's done deciding the guilt in advance.

In Bush's second State of the Union Address someone pointed out in a *New Yorker* article, he had these lines saying since 9/11 we've been able to arrest X number of people and there are hundreds of other people who, 'how shall I say it? Well they won't be around to bother us anymore', and the article said you could just see him blowing smoke over the barrel of his gun, you know it was a kind of Wild West, it was an extra-legal statement about taking people out without even deliberating.

The person who's done the most work about detainees in the United States is a law scholar in Georgetown names David Cole; the last figures I have from him, and I think I have this right, is that of the five thousand people detained, only three have been officially charged with terrorist-related activities, and of those three two were exonerated right away as having nothing to do with terrorism, so only one person seems to have some actual connection, so it's just rounding people up and putting them in unthinkable circumstances.

And the report that has been done on Abu-Ghraib, the Taguba Report which looked at responsibility of the military police brigade, and the Jones/Fay Report which looked at responsibility for the military intelligence brigade in Abu-Ghraib, though they were assessing the responsibility of individual soldiers, police and military intelligence, there are lots of things in those reports that make clear the lines of responsibility to Bush and Rumsfeld, things that President

Bush and Mr Rumsfeld did in Guantánamo and on the island of Diego Garcia and in Bagram, Afghanistan then migrate, and I mean very concretely; some of the military police that we had in Guantánamo and in Bagram -and in Guantánamo, remember, this is a place where Bush has said that Geneva Rules don't apply, they don't apply to these people - and in Bagram he said, we are not constrained to work within Geneva at Bagram, but I personally am going to follow the Geneva standards, but I retain the right now or in the future to suspend Geneva – so saying that the Rule of Law can be suspended by an individual man. So in one place, Guantánamo, it's directly suspended, in Bagram you say that this is a rule of men, not a Rule of Law, and then you're surprised in Abu-Ghraib when individual soldiers think that they can suspend the law?

I started to say that the transitions were very concrete. Individual military police who were in those two other locations were present in Abu-Ghraib when the torture occurred; furthermore, two of the people are soldiers who are connected with the two deaths in Bagram, Mr Dilawar and Mr Habibullah, who died from being repeatedly struck on the legs during torture. And so two of the military intelligence people from Bagram are there on the ground at Abu-Ghraib.

Furthermore, if you look at the procedure that Secretary of Defense Rumsfeld authorised at Guantánamo, the list – it's in black and white, it's on paper -he authorised nakedness, he authorised the use of dogs to intimidate, and what shows up in the photographs of Abu-Ghraib is nakedness, and the use of dogs. So in terms of the rules being carried [out] that we have in the list, and in the rules themselves, it's right there in the language of President Bush and Rumsfeld. You look at those photographs of the dogs – that's what it looks like when you replace the Rule of Law with the rule of men. Quite literally, what the Abu-Ghraib photos show is that I have his dog on a leash under my power – I can keep holding the leash or I can let the leash go, it's up to me and you're at my mercy. And what Bush is saying when at Bagram he says he says "I have the power to suspend Geneva at Bagram", is that right now I have it on a leash but I want it understood that at any moment I could let the leash go...it's an exact transcription... so the culpability is very direct.

Amnesty International has called for there to be a trial of government leaders, either one that is directly set up by congress in the United States or by an international organisation, and it would be up to that kind of body to determine the exact level of war crimes, but from what information we have from the documents that have already been released, it looks like there's very direct responsibility for those crimes.

The discrepancy between what the jurors will do and what will happen when this is just being done in dark rooms is a little bit like the difference between what happens on Flights 93 and 77. Each group is going to use their own structure.

Q: A not irrelevant screen tie-in here is the show 24. I find the show troubling, not least because it's so good and so compelling.

ES: Is it shown here?

Q: It is shown here, Keifer Sutherland plays an agent in a counter-terrorist unit, always getting involved in these outlandish, extreme circumstances where his maverick style is called upon to respond and to deal with the situation, in ways that might really go 'off the books' or he might have to be exiled from his country, or whatever. But as the focal point of the show, his character Jack Bauer is utterly sovereign, and so the state of exception comes in all the time. He can torture someone, and we accept that because we know he's doing whatever needs to be done...an infallible sense of right and wrong...but there's something interesting, I think more acceptable, about it because he is this individual acting on his own, in ways that defy the governmental agency he works for and the government he represents. You know, there's all this corruption and politicking in CTU and in the US Government and he has his moral code that he's acting upon. This prioritisation of the individual that we get wrapped up in, I just find it a really troubling...

ES: The fact that it licenses torture is unbelievable. People have described to me what you described to me, that it makes torture seem imaginable, takes a very attractive person and makes you think that you can actually carry out that act.

Q: Or subject him to the torture unjustly and he stands up to it, it's like Jesus in Mel Gibson's Passion takes it, takes it, takes it and never gives in.

ES: O no, I hadn't heard that

Q: And he's the one who also dishes out the torture in certain circumstances to accomplish what needs to be done, to keep people safe, to keep the nuclear weapon from exploding, or to keep, you know, the President from being assassinated.

Q: I think one reason the image works, and becomes so ethical and inductive, is because with *24* uses the ideal unity of time, so it calibrates the experience of the individual hero to a particular sensationalist experience of the viewer, and everything has to happen every moment, and that is emergency thinking and saying that only emergency thinking is possible. I'll give another example – and God knows I suffer for my art! (laughter) - I read a Dan Brown novel last week, the prequel to the *Da Vinci Code* where horror of horrors, the public seems to accept the fact of a Harvard Professor of the Humanities dabbling in emergency situations where an anti-matter bomb is ticking underneath the Vatican.

ES: What book is that?

Q: Dan Brown's awful, awful *Angels and Demons*. The characters in it say things like 'Listen very carefully, I will say this only once'. But it does seem as if the popularity of that and the *Da Vinci Code* isn't about the conspiracy theory, which was so mid-90s, I think it's more about thinking against the clock, and deliberations against the clock.

ES: Ah. Wow.

Q: Using his hermeneutic skills and knowledge while the clock's ticking.

ES: Wow...I can see, of course you're right, the appeal of *24* is that it's in real time, and this argument about the ticking bomb being the excuse for torture that Alan Dershowitz and many others have made is incredibly prevalent, and that argument, that you might have to torture because you're going to torture somebody who has a nuclear bomb, so to save a million people or 70 million people you're going to torture somebody that actually has been around since the 70s and probably earlier. I remember a Newsweek article in 1977 that said that same thing; and to me. It's such a transparently absurd argument and yet I have to face the fact that lots of people o like and respect will cite that to me as a reason you might have to torture.

Alan Dershowitz is very vocal on this issue of the ticking bomb, and he wrote a piece called 'Tortured Reasoning', in a book called *Why Terrorism Works*, the centrepiece of it is a chapter on the ticking bomb argument and he wants to get these 'torture warrants' where under certain circumstances you're going to be able to get a warrant allowing you to torture people. And I wrote a response to it in a book that came out on torture, and his is called 'Tortured Reasoning' and mine is called 'Five Errors in the Thinking of Alan Dershowitz' and the thing is, really, an incredible time seduction. Because among the many problems with that argument - first of all there's the problem that he elaborate record we have of torture incidents, from the present time back down to the late 70s, or Algiers..I want to say that it's never the case, but in order to be scrupulous I'll say it's almost never the case, that there's an actual instance of the ticking bomb and someone gets accurate information and information that actually involves greater injury. And of course the ticking bomb always involve a nuclear explosion, so you're talking about millions of people, and then gets down to a bus of people, then a single person –and not that a single person's life doesn't matter, but it's a kind of rapid sliding scale, where you imagine yourself in the position of being able to save people. In those few cases where people have actually gotten accurate information through torture, they can't use it because they know that the whole history of torture produces such false information that they can't act on it without getting separate confirmation, and that takes as long as if they had never carried out torture at all. For example, during the torture of Mr Zubeda which involved lots of different practice, but he during his capture had been shot in the groin, and we not only tortured him but enlisted his wound and the pain he was in by only giving him pain relief if he would talk which is absolutely, as you can imagine, forbidden by every international law there is. And during this time, according to Gerald Posner in the book *Why America Slept*, they also enlisted a false flag torture by putting him in a room where he flags were Saudi Arabian and had the torturers pretend to be Saudi Arabian, and surprise, surprise, he started telling the torturers "But I'm on your side" and they used this to produce the names of people in Saudi Arabia and phone numbers and so on and so forth.

Now, did we learn something useful from this act of torture? Every man, woman and child in the world knew after 9/11 that 15 of the 19 terrorists had been from Saudi Arabia, so if there's a possible connection to Saudi Arabia you don't need to torture someone to introduce that as a possibility. Second of all, they couldn't act on any of that information on the specific phone numbers because they said mountain of false information is produced by torture, so they would call up somebody in Saudi Arabia and say, do you think so-and-so was actually involved only to be told "no", so they couldn't act on it. Anyway, the fact that you only get false information and that people are using it in the dark is just one of the things that is wrong; the main problem with the ticking bomb argument is that people imagine someone heroic enough that for the sake of saving 70 million people from a nuclear weapon they're willing to overcome their moral revulsion to torturing and torture, so they can imagine someone willing to do that, but they can't imagine someone large-spirited enough that to say "If I'm going to do that, I'm willing to die for it, I'm willing to go or jail or be executed or whatever the punishment is for torture. I will do that, happily, I just saved 70 million people, end of story." Why would you need to go through all these arguments about licensing torture in order to do that?

When I had the opportunity to look at torture in *The Body in Pain*, that was based on documents from many different countries, and people were so surprised about Abu-Ghraib and the posturing and the photographs, and that one of the photographs was used in the military base as a screensaver; but when you look at all the different torture locations, that element of performance is there. For example, the torture room was called 'The Blue-Lit Stage' in Chile, the 'Production Room' in the Phillipines, the 'Cinema Room' in Vietnam, and the compensatory drama that's produced when a country feels it's become powerless is really being acted out.

The United States could not find confirmation of nuclear weapons through using UN agencies, then had its own soldiers looking for nuclear weapons, couldn't find confirmation, then decided it would produce this emesis (? 1:45) of information in torture rooms, because we know that one of the things people were asked in Abu-Ghraib was about torture weapons. So the recourse to torture, in the case of the United States and in the case of a lot of other countries, tends to come at a moment when the country no longer believes in itself, where its ordinary forms of validation aren't there.

Q: Going back to what you said earlier about the Salgado photographs and the difference between knowledge and realisation, that seems to link in with you're saying about torture and the argument in *The Body In Pain*, that you referred to, about language; and I wonder if you think that we're entering into a new type of social contract, where we know what things are going on, it's exclusively sanctioned by the state and is said to be so by the President, we see it [in the photographs], but we don't hear about it, we don't read about it, or if we do so it's couched in euphemistic language

ES: Right.

Q: and language no longer really operates as a form of secrecy, or a cover for what's going on, but as a level of denial.

ES: Yes, and it's often amazing to realise how serious the word 'leadership' is. A leader is somebody whose beliefs are followed; that's why you want to have a leader who believes in the law because, if you have a leader who doesn't believe in the law, many people among the population will cease to believe in the law. So you suddenly have President Bush or Secretary of Defense Rumsfeld sanctioning torture, and the break on that should be that the population says, "No, actually we can't sanction torture" and of course there are many people who say we can't sanction torture, but meanwhile there are an awful lot of people who believe and emulate their leaders and therefore think, well, apparently it's ok to torture in this case, so it is a kind of strange mental act, a kind of double think, because this legitimacy seems to be conferred on it by the fact that this good-natured leader seems to think that it's ok. On the record, both President Bush and Secretary of Defense Rumsfeld have acted deeply disgusted by those photographs, and there that goes to your point about knowing something in the abstract and knowing something once you see the actual graphic information but when they just have it on paper, when it's just a matter of checking off whether you can use dogs or nakedness or something then they lose contact with what the reality of it is.

Q: Nevertheless, he got re-elected

ES: he did get re-elected

Q: which was a big surprise to all, and that makes you think., what's going on, if the people don't recognise?

ES; I don't understand it, I really don't. I understand that the election figures were manipulated in the first election....on July 17th 2001, so shortly before 9/11, there was an unbelievable piece of work in the New York Times. The New York Times, as we all know, often doesn't do any critique of anything at all, but sometimes it does, and this was an article, a fantastic article, that was much more like an academic article than a newspaper article, many pages long, full of careful details, that went over the Florida election and the use of military votes to load the election in Florida complete with photographs of postmarks coming into Florida from these offshore military votes, and I think the author did some of the early torture revelations before Abu-Ghraib even broke.

But for the re-election, I don't understand it, the fact that the Democratic candidate would not even talk about Abu-Ghraib, it's almost as if there was a feeling that torture involves the breaking of a law so sacrosanct that you wouldn't want to use it politically. You wouldn't want to use an election to talk about something that actually mattered, because that would be using something politically. We should only talk about things that are trivial and don't matter, not that the election issues were trivial, but the fact that the leaders on the other side didn't stand up and say 'Look, I don't know if I'm going to be elected or not, but I'm willing to lose this election, I have the camera right now and I'm going to tell the American people that something just happened so awful that every man, woman and child in this country ought to be able to take a stand against it. Elect me if you want, don't elect me if you don't want, but I'm not going to let this moment go by without saying that.' They wouldn't do it.

I don't understand it. We have the letter that ten of our senators wrote on the eve of Iraq signed by people like Ted Kennedy and Diane Feinstein asking President Bush to say that he will not use nuclear weapons in Iraq, because Bush had spoken at Westpoint and said how the policy of massive retaliation was too little, too late. Well, massive retaliation is nuclear language and someone who talks about massive retaliation being too little, too late is talking about first strike and they knew he was talking about first, preemptive strike but they didn't think nuclear.

It's a private letter to the President, and yes, if you've heard about it you can track it down and ask for a copy of it but it's a moment again where they should go to the American people and say, we have a problem. And you know there's been this recent article by Seymour Hersh in the New Yorker saying nuclear weapons are very much on the table for Iran, then the White House denies it, but this goes back to Maria's question, the difference between knowing something in the abstract and knowing it in reality, if the country uses nuclear weapon in Iran, everybody will say not only did you have President Bush making speeches long ago at Westpoint and Secretary of Defense Rumsfeld saying, we don't want to be straitjacketed by certain international prohibitions - and the military handbook will tell us that nuclear weapons are not illegal - but we had a major article telling us that these things are on the table and yet as with torture, you would think that the country ideally would come to a standstill, both with the revelations about torture and the revelations about possible nuclear weapons use in Iran but there's this problem between the abstract and the concrete, and if one were to hold up pictures to the public and say that's what nuclear war looks like, you would be accused of being hysterical because it hasn't happened yet; that is to say the unreality that something has because it hasn't happened yet gets confused with the unreality of being untrue, but those are two different forms of unreality and yet you can't wait till the thing has reality to be able to make it counter-factual, to make it not happen. You can only have that happen, you can only do that before it begins to happen.

Q: I would like to go back to the central point of your thesis, this issue of habit, and if we look at everything we've talked about today, we're really talking about this age of emergency and I was wondering how we would utilise your whole thesis of habit? We could go into all the problems of the world and anyone with any morals and ethics would side with that and want to move from injustice to justice; but what is the role of habit? Is it to be seen as a comfort to those who can't change the world? We're talking about words like 'emergency', language that my mother's generation wouldn't have used so readily, even going through the Second World War, they would use other terminology, but are we just experiencing the realisation that we no longer have control, that we don't.... well.. I don't believe that we ever did have confidence in our government to do the just thing.

ES: There's an array of important questions embedded in what you're saying, and just to get it straight in my own mind, the vocabulary that your mother wouldn't have used was the emergency language?

Q: Yes

ES: Yes, and there again, why has this been so readily picked up? I gave a paper at Harvard, not only on the breaking of the rules against torture but other rules, such as you're not allowed to shoot at a hospital and we did this big rescue of Jessica Lynch without anyone saying, it is not permissible to conduct a raid on a hospital. It's just mind-boggling. Anyway, the response to that was from Jack Goldsmith who was in the White House government of law, and when he first came to Harvard Law School people didn't want him to come there because they thought he must have complicity with the torture memos. It turns out that, although he is more conservative than most University people, eventually Newsweek or Time did a story revealing that he had actually tried to put the brakes and say you can't do this. And yet there he was that night saying we are in an unprecedented state and it's not going to go away, it's going to be a permanent state of war and I thought this is unbelievable that people of this stature, people who are law professors and have worked in the White House, actually believe this gibberish about we're in an unprecedented state of war and it isn't going to end. This is straight Orwellian language from 1984, we're in a permanent war and so, like going back to why Bush was re-elected, I don't know why this language has been so successful.

Jack Goldsmith was saying individual terrorists might not be eligible for protection from Geneva. As many people pointed out, if these terrorists were not state actors they should be gone after with criminal actions, not the state apparatus for a 'state of war', our vocabulary. But what we do is go after criminal actors with state of war procedures and then, lo and behold, we find that our opponents in the state of war are not state actors and are therefore not protected by Geneva. You're going in a loop of permissive language that lets you do the most injury or puts the fewest brakes on restricting your right to injure, and it's negotiating the language that way.

Q: Going back to the first point, how do you see in a practical sense a means to take this theory of taking the creativity and deliberation of habit and take it forward to make any impression on this state of emergency. Having listened to you yesterday, I could say that what was being said was very attractive to me, I wanted to believe that it would work, but there seems to be this gap between the atrocity [and the practicality] ?

ES: Right. Well, that's why the fact that there are brakes – in the case of United States law – in the constitution that would give us a way of doing it, part of the way that I came to doing that piece on 'Thinking in Emergency' – I mentioned there are other parts to this project that are specifically on Article 1, s. 8, the requirement for a declaration of war, and specifically on the right to bear arms and the responsibility that involves and the constitutional legal straightforward reading - but there are lots of people who would say, well, constitutional law; that's a bore. Like the putty-coloured account of Benjamin Franklin. Who cares what the United States constitution says in the world we live in? And in fact, we have a lot of talk about globalisation and lots of times people are very impatient with national constitutions. Believe me, I believe in international law and rights, but if you give up constitutions you've given up everything, because they are something that huge bodies of people have signed on to whereas often if one of us is in a room with people from eight other countries and you all care about human rights, often there can be a feeling like who cares about the constitution, that's national, we want to do something international; we eight people who don't have the authorisation of our population at all want to transcend this merely grey piece of paper.

One very specific solution for me is to care about the fact that this is a legal tool that's on our side, like David's slingshot against Goliath. It is a slingshot and it is a tool, and I think it could work if it's directed, if people would only believe that it mattered. Recently a book has come out in the United States on the freedom rioters, very detailed, starting in the 40s and going up to the 60s and their whole method is that This Is The Law. It's not just that it's wrong to have segregation; once you get this case in the 40s, *Morgan v Commonwealth of Virginia* where the Supreme Court said you're not allowed to have segregation on the buses and trains, there was still widespread practice of it on the buses and trains, although it was in the law. But people in the South didn't even know it was the law, so those freedom riots were not civil disobedience against the law, but saying this is the law, and telling the bus driver, this is the law. And in many cases – this is a thrilling and terrifying book – it's saying but for these 14 people, these 12 in Nashville, these 6 over here, this thing

would never have happened. But the point is, that at every point they've got the law on their side.

And though there are lots of cases where the bus driver wouldn't actually go, and you've got Bobby Kennedy on the phone saying, somebody's got to drive that bus, get Mr. Greyhound in there, or whoever the hell Greyhound is, because somebody's got to drive that bus, at a certain point people on the bus say, this is Morgan v Commonwealth of Virginia, it's the law, the bus driver will then tell any person who protests the integration, it's the law, so it is a tremendous tool, if people will just believe that it matters that it's the law.

I believe that even if it weren't the law, one would have to try to find a different way, like the Barrigan brothers just going in directly and start dismantling the Aegis cruisers but much better that there really is a law that can be applied.

Q: So culturally, people have to be reminded that there are laws, and that's what's been forgotten?

ES: Yes.

Q: But there are large sections of the population who either, through ignorance or apathy, don't appreciate that here are laws that are there for their rights and for the rights of others

ES: That's right, and of course how the population reacts to the law is absolutely crucial because I remember when I was first trying to do this case that of course went nowhere in the United States, and I talked to this person Abe Chayes at Harvard Law School, and he said, there's not a federal judge in the United States that would pass that. And I said to him, "What about Lou Pollock?", a judge I knew of in Philadelphia, a very visionary person, and he said, I don't even think Judge Pollock would do it. But I think the fact of the matter is that if you track the willingness of the US Supreme Court to make certain decisions it's often very influenced by what the population is doing, you know if the population is up in arms about some violation in Vietnam or about a rights issue, the courts are not immune, and it's the two working together that make it happen, the population can't do it without the law coming in, and the law can't really do it if the people don't seem to care and I don't know why that should be because if it's the law it's there on paper it should be able to be done. It's very important that people protect it. I'm sure the same is true everywhere, often when there are protests it simply isn't covered in the media, I'm sure everyone in Europe thought that everyone in the United States was in favour of Iraq which is completely untrue, there were so many people opposed but the demonstrations had a hard time gaining momentum because they wouldn't even be covered in the papers. Recently, there have been people who've gotten themselves arrested over this torture issue but it won't appear in the papers, and therefore it can't get any traction on the problem.