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Shah Ameer Khan

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The Space of Enforced Disappearance

Shah Ameer Khan

*Forman Christian College (A Chartered University), Pakistan
E-mail: Shahameerkhan171@gmail.com*

Abstract

Enforced disappearance is a pertinent issue, particularly in the context of Pakistan and many other developing countries. However, the phenomenon of 'enforced disappearance' and the presence of a corresponding 'penal architecture' characterized by its 'invisibility' and 'unknowability' has not been given sufficient scholarly attention. Most of the literature available on enforced disappearance describes it as a tool of terror used by the state (or its agents). What is not focused on is the relation that exists between the phenomenon of enforced disappearance and the sovereign in the modern state. I unveil this relationship and explore its implications on our understanding of the concept of sovereignty by formulating arguments derived mainly on Arendt and Agamben's concepts of 'appearance' and 'bare life' respectively. I argue and establish that enforced disappearance is an 'exceptional' phenomenon that results in the placement of an individual outside the protection of law into the 'space of exception' that is a complete and imposed negation of the space of appearance. Furthermore, the relationship between the sovereign and appearance is explored.

Keywords: Enforced disappearance, space of appearance, exception, bare life, sovereignty, action

Introduction

'The need to lend a voice to suffering is the condition of all truth'
– Theodor W. Adorno

At some distance from Pakistani city Quetta a cemetery has been established by Edhi Foundation, a non-profit welfare organization. This is the cemetery of the unidentified people and buried underneath are 150 tortured dead bodies that were found dumped in remote areas (Baloch, 2019). The corpses before being dumped into some unmarked pit or an anonymous mass grave are sprayed with chemicals or limestone powder so that they decompose beyond recognition by the time they are found. However, this cemetery of the unknown is not the first to have been established and the discovery of mutilated, tortured, decomposed, and unnamed bodies is not an infrequent phenomenon in Pakistan. A mass grave, of four mutilated and decomposed bodies, was found on 17th July 2018 in the Panjgur district of Balochistan. The discovery was made by a truck driver on his way from the border village of Parom to Panjgur town. When the news reached Panjgur city relatives of *missing persons* were the first to reach the place where the mass grave was found hoping that the corpses might be of their lost relatives (Balochistan Times, 2018).

This is the fate of the victims of enforced disappearances. In most of the cases, this is how they reappear from the dark dungeons of secret detention facilities and rejoin their families if they ever are identified. According to available records, between 2010 and 2015 a total of 4557 dead bodies of involuntarily disappeared individuals were found (Badalič, 2019, p. 161). In other cases, the disappeared never come back and their whereabouts remain unknown. Idris Khattak, a human rights activist, has not been seen and heard from since

November 13, 2019. It has been six months but his whereabouts remain unknown (Human Rights Watch, 2020). The family has filed a *habeas corpus* petition in the Peshawar high court but how the *corpus* can be produced before the magistrate when it is precisely the body, which the law needs for its application, that has been placed outside the protection of the law and has been thrown into the land of the disappeared?

According to the International Convention for the Protection of All Persons from Enforced Disappearance:

Enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law. (Office of the United Nations High Commissioner for Human Rights [OHCHR], 2006)

As the definition itself suggests, enforced disappearance is different from other forms of abduction in that it involves involuntary detention by state agencies. The disappeared person is then moved to a secret detention center and the clandestine attitude surrounding these detention facilities makes it difficult to trace the disappeared person thus hindering the due process of law. The Commission of Inquiry on Enforced Disappearances reported that 2141 cases of enforced disappearance are yet to be resolved (COIED, 2020). However, the figure given by NGOs and other local human rights groups is far more. As Banu Bargu (2014) states victims of enforced disappearance face an *agglutinative* human-rights violation. Involuntary disappearance violates the right to security, right not to be subjugated to torture or other degrading punishment, right to humane conditions of

detention, right to legal personality, the right to fair trial, and sometimes the right to life. In short, the person who is disappeared is stripped of all the political and legal rights and is as such reduced to a mere object of search, the person having been dispossessed of every protection is thus reduced to *bare life*. A life that according to Agamben lacks all the protection of law since it exists outside the law and is exposed to the unremitting violence. But what precedes the violation of these rights? What is it that is denied to the disappeared before being dispossessed of any of the rights mentioned above?

‘Although torture continued, I was happier as I had someone to talk to. But he too was shifted to another cell after a few days and I was once again left alone’ said Haji Naseer, former mayor of the Mand town and Finance Secretary of Balochistan National Movement (BNM) who was forcefully disappeared on July 24, 2004, in an interview after being released (Balochistan Times, 2018). He was kept in isolation in Quetta cantonment where he was subjected to repeated interrogation and third-degree torture for several weeks. He felt happy when more detainees were brought to the same cell because now he was in the company of people who were *equal* to him. The state in which Haji Naseer found himself i.e. the realization of the absence of others and the desire to be among equal others shows how the human multiplicity, the cohabitation of the world by equals, gives meaning to individual life.

Therefore before being stripped of all political and legal rights, the person who disappeared by force is deprived in the first place of the world that he holds in common with others. He is deprived of the space where he could appear to others as others appear to him (the Arendtian *space of appearance*) and his existence is reduced to a state of being singular since he is no longer in human company. Enforced disappearance is a state of

complete dispossession where not only the rights are taken away but also a closure of the world of appearance occurs where one can disclose one's identity in the manner of action and speech.

Statement of Purpose

The political existence of human beings has been defined in different ways since the time of Aristotle. Understanding of an individual as a political being has taken various shapes over the course of history and so has the understanding of the means to oppress him and to negate his political existence taken different shapes. Enforced Disappearance is one such phenomenon that exists as a repudiation of an individual's political existence, as a direct negation of being-among-others (appearance) to which Arendt has given paramount importance. In this paper, I attempt to interpret Enforced Disappearance as an *exceptional* phenomenon that is characterized by the suspension of all legislation in which an individual is caught as *bare life*. This paper will discuss the following questions at length:

1. What does it mean to politically exist in spaces of visibility and invisibility?
2. What is the relationship between political action and Enforced Disappearance?
3. What happens to the one who is disappeared by force?
4. What is the relationship between sovereignty and 'Appearance'?

Review of the Literature

Enforced disappearance to this date remains an understudied topic in political theory. Not enough attempts have been made to theorize the phenomenon of enforced disappearance and,

hence, to understand the political and philosophical questions it raises. Literature available on enforced disappearances is usually limited in scope to define it as a mere tool of terror used by the government to repress and dominate resistance¹.

Bargu (2014), however, in her essay “Sovereignty as Erasure: Rethinking Enforced Disappearance” explains and theorizes the phenomenon of enforced disappearance in a very compelling way by reading Hobbes through Foucault mainly. Bargu’s work is, nevertheless, insufficient to understand the phenomenon of enforced disappearance in its totality. Although Bargu talks about the enforced disappearance as a manifestation of the erasing effect of sovereignty, her argument is primarily focused on defining the invisibility and the associated erasing effect of the practice of enforced disappearance. Her thesis, however, does not help us understand the connection between political activity, at the very fundamental level of being born human, and sovereignty. To understand in more depth about the implications of enforced disappearance on our understanding of sovereignty it is important to focus on what happens to the one disappeared by force.

Arendt gave paramount importance to one of the three human activities that constitute *vita activa*; Action. Whereas the other two activities i.e. work and labor are visible activities but they do not depend on their *appearingness* and can take place in isolation too, action cannot because it becomes possible only when it appears to others (Arendt, 1998, p. 22). Since action cannot take place in the absence of others, therefore, the human condition of *action* according to Arendt is plurality, which simply means that one lives in a world inhabited by other humans and not by a singular individual (Arendt, 1998, p. 7).

The world is inhabited by a multiplicity of human beings, each of whom is equally distinct from the other and

each holds a specific identity that cannot be shared by anyone else. It is only through action and speech that humans disclose to each other their unique distinctness (Arendt, 1998, p. 176). For when humans act they appear to each other not as mere objects but as *human beings*; equal and distinct. Appearance, therefore, is both the result and the condition of action; it is only in acting that one can appear to others like him and it is the very appearingness of human beings that makes action possible.

When individuals appear to each other in the manner of action and speech they give rise to a space of visibility, called by Arendt 'the space of appearance'. In this space, all individuals appear to each other as equal and disclose to each other their unique personal identities (Arendt, 1998, p. 179). This space of appearance is a political space because when human beings act and speak together they give rise to a political realm. This space corresponds to the Greek polis that constituted the public realm where individuals could initiate their *bios politikos*. No doubt, Arendt's conception of politics as action is directly influenced by the Greek political structure and the political writings of Aristotle. To act, for Arendt, is so important that he who does not act cannot be called human anymore because to act is to appear among others and since appearance is the only possible way to be recognized as equal and distinct, therefore, any abstention from taking the *initiative* to insert oneself to the scrutinizing and equalizing eye of others, to the public realm, is equivalent to live a non-human life (Arendt, 1998, pp. 176,199). The action to which Arendt refers is not merely intelligible action but meaningful action because in appearing together as such humans give rise to power relations that either attract or repel attention (Marquez, 2012). The power that springs from acting and speaking together of *equal* individuals spreads symmetrically across the space of

appearance and each actor is equally powerful. Abstention from appearance means to live a non-political life characterized by impotency because it is no longer lived among humans and, therefore, is non-human life (Arendt, 1998, pp. 200-203). The question here is what if this condition of non-politicalness and impotency originating from disappearance is not assumed by the individual based on his own will but imposed, or rather enforced by someone else? Arendt's description of what it is to be among others (*inter homines esse*), to appear to them, to act and, therefore, to exist (politically speaking), compels me to raise the question that what it is to be in a state of *imposed* or *forced* negation of this state of being among others?

It is here that the phenomenon of enforced disappearance becomes relevant. Having known the consequences of not appearing to others and leading a politically inert life (in other words, deliberate non-participation in the public realm) it is possible to extend Arendt's thesis by including another space of invisibility besides the private space and the space of disappearance. This third space of invisibility is the subject of our analysis here. Since the invisibility we are concerned here with is imposed, it can be argued (based on Arendt's conception of action as appearance) that this disappearance is an imposed negation of everything that constitutes the space of appearance; and as the latter is the space where humans exist as humans, in the former a form of life is produced that can be called anything but human. The fact that this invisibility is enforced by the State or its agents impels us to bring into discussion the work of one of the most prominent theorists of modern sovereignty of our time: Giorgio Agamben.

It is important to discuss Giorgio Agamben because expanding upon Arendt's thesis alone would be insufficient to understand and theorize the phenomenon of enforced

disappearance. What is it to be forcefully withdrawn from the space of appearance? Who possesses the power over appearance in the political hierarchy? What are the political implications of such exclusion? These are the questions for which Arendt does not give us an answer. Therefore, in order to unveil the connection between the 'sovereign' and appearance, it is important to discuss Agamben, in this context. Agamben's homo sacer represents a life that has been condemned and excluded from the political. A life that has been denied to live among others. Homo sacer is a figure who has been *abandoned* and excluded from the city, the polis and so represents a life that is deprived of politicalness i.e. a *dis-politicized* life. However, Agamben unlike Arendt does not take into consideration the relationship between appearance and political action while discussing politicalness or the lack thereof.

As mentioned already, it is my contention to theorize enforced disappearance as an *exceptional phenomenon*. The state of exception according to Agamben is given rise to by the suspension of the juridical order following the sovereign's decree. It's a zone of indistinction between inside and outside; between norm and chaos and that which is excluded into this exception does not become irrelevant to the rule but rather maintains itself in relation to the rule that applies to the exception in no longer applying (Agamben, 1998, pp. 17-18). State of exception could be characterized by either a temporary suspension of norm following an emergency (like war) or permanent suspension of the juridical order through the visible localization of the state of exception as in the form of Nazi concentration camps that constituted the absolute state of exception (Agamben, 1998, p. 20). Excluded into the state of exception is a life that has been banned and to which the law applies in no longer applying. To symbolize this inclusive

exclusion of the life Agamben uses a figure from Roman antiquity deemed as *homo sacer* by Roman law. The *homo sacer* is the embodiment of a life that can be killed with impunity but cannot be sacrificed (Agamben, 1998, p. 82). The life of the *homo sacer* is natural life that is exposed to death; bare life. The production of bare life or sacred life, therefore, constitutes the originary function of sovereign power. And it is in the production of bare life that the sovereign power and biopower intersect each other in the modern state (Agamben, 1998, pp. 6-7). A deeper analysis of what shape the life of forcefully disappeared takes in the space of enforced disappearance and what characterizes this space will help us find the point where the theses of both Arendt and Agamben can be made to converge.

Section – 1: Space of Appearance and Meaningful Action

‘The space of appearance’, according to Hannah Arendt, ‘comes into being wherever individuals are together in the manner of speech and action’ (Arendt, *The Human Condition*, 1998, p. 199). It’s a space where human beings can appear to each other, not as inanimate objects or other living things but as *acting* and *speaking* human beings who are unique and distinct. Appearance, therefore, presupposes the existence of other men, the recipients of appearances, otherwise to appear would make no sense. Action, from which the space of appearance originates, is one of the three fundamental human activities constituting the *vita activa*. Unlike fabrication and laboring, the human activity of *action* (and speech) to manifest itself presupposes the existence of a space of appearance and other men².

Action, therefore, corresponds to the human condition of *plurality* (the existence of other individuals in the world) that is

characterized by *equality* and *distinctness*. And it is in action and speech that equality and distinctness of individuals are revealed (Arendt, *The Human Condition*, 1998, p. 176). According to Arendt the nature of the world is phenomenal where 'nothing and nobody exists whose being does not presuppose a spectator' and human is not merely a subject all the time but also exists as objectively as a 'stone or a bridge' (Arendt, *The Life of the Mind*, 1978, p. 25). However, human beings appear to each other not merely as physical objects to be experienced and used giving birth to what Buber called an *I-It* relationship. Arendt avers that the revelation of unique distinctness of humans through action and speech occurs only when they appear to each other, not as objects, but as other distinct acting subjects who too experience and know the world (Arendt, *The Human Condition*, 1998, p. 176). In other words, human beings appear as unique and distinct to each other when they are engaged in a non-objectifying way through the communicative exchange, as subjects who form and belong to a world in common. Therefore, the action that constitutes and takes place in the space of appearance is not just like every other social activity but is, in fact, *meaningful action* (Marquez, 2012).

Meaningful action means to take an initiative to enter into the realm of visibility where the disclosure of the unique identity of individuals can take place through speech as constitutive action. For 'in acting and speaking', says Arendt, 'men reveal who they are, reveal actively their unique personal identities and thus make their appearance in the human world' (Arendt, *The Human Condition*, 1998, p. 179). Since to act means *to initiate something* or *to set something in motion*, it shows that meaningful activity is meant to achieve (Greek *prattein*) a specific purpose in concert with other individuals who reveal to each other their unique identities and appear as equals because

the power that arises out of the sheer togetherness of human beings in the space of appearance is equally distributed among the participants (this point will become more clear in the third section of this paper). The meaningfulness of action with which Arendt is concerned becomes even more clear when she says that to take this initiative; to step into the world where the *who* (like the *daimon* accompanying every man according to Greeks) will disclose itself to the gaze of spectators involves a certain connotation of *courage* i.e. courage and *willingness* to appear and to begin a story of one's own in the public realm. Arendt writes that 'courage and even boldness are already present in leaving one's private hiding place and showing who one is, in disclosing and exposing one's self' (Arendt, *The Human Condition*, 1998, p. 186). This close association between appearance and courage manifests itself in the figure of heroes who were called *andres epiphaneis*³ in the Greek linguistic custom, which means 'men who completely manifest themselves'.

This meaningful action carried out in concert with others is political for it occurs in the political realm, the potential space of appearance. Since the action is conditioned by the plurality ('the condition of all political life'), it is directly related to the public part of the world; the part of the world that is shared by men; the objective world of tangible things that exists between human beings as well as the intangible world of human affairs that forms the world in-between. However, the action is not merely a constituent of the public/political realm but is also constitutive of this realm because the 'political realm rises directly out of acting together', through the, 'sharing of words and deeds' (Arendt, *The Human Condition*, 1998, p. 198).

To appear in the manner of speech and action, therefore, is what makes possible the political existence of men. How shall we theorize then the phenomenon of enforced disappearance,

the victims of which inhabit a terrain that is the exact opposite of all political activity and visibility that it engenders?

All the victims of enforced disappearances in Pakistan were engaged in a certain politically meaningful activity. Most of those who have gone missing (or those who went missing but reappeared as dead bodies or those who were fortunate enough to reappear from the dark dungeons) are either members of nationalist movements, politically active students, journalists, and human and political rights activists. Mehboob Wadela, a member of the Balochistan National Movement (BNM), was abducted on April 2, 2010, from the outskirts of Karachi, where two police cars and two double cabin Toyota Hilux pickup trucks were waiting for the minibus in which he was traveling from Karachi to Gawadar. His body was found dumped in the Omara district of Gwadar almost a year later (Human Rights Watch, 2011). Sangat Sana Baloch, the leader of the Balochistan Student Organization-Azad (BSO-A), was abducted by security agencies on 7 December 2009 while traveling from Mastung to Sibi. His bullet-ridden body was found on 13 February 2012 (Baloch Sarmachar , 2017). Journalists and activists, too, have been subjected to enforced disappearances. Zeenat Shahzadi, a 24-year-old journalist, was abducted on her way to work by security agencies on 19 August 2015 in Lahore. Similarly, Idris Khattak (mentioned in the introduction), a human rights defender and a political rights activist was abducted by armed men on 13 November 2019 near Swabi and has not been seen and heard of since the day he disappeared (Human Rights Watch, 2020). Besides these, there are thousands of cases of enforced disappearances. The point is that all those who went missing were engaged in meaningful activity, in one way or another. Individuals who have been subjected to enforced disappearance were politically active people like dissidents, writers (especially those who write

against the malicious acts of violence committed by state security agencies), journalists, human rights defenders, etc. It appears as if their very political engagement brought into question their political existence. Those that have gone missing as such find themselves in a space of political inaction since to be politically active one has to be among others who are equal to him. But when one has been made to disappear from among his peers and is thrown into the darkness of the detention facilities, where the only relationships that exist are those of inequality, which is the exact opposite of the luminosity of the space of appearance, his life as a political being comes to an end (See section 3).

Section - 2: The Private Space & the Space of Disappearance

It is important to make it clear here that not all forms of invisibility correspond to the state of invisibility and permanent inaction that characterizes, what I will call in this paper, the *space of enforced disappearance*.

One cannot at all times appear to others in the manner of speech and action because appearance, although crucial to be considered to exist at all, is always followed by a period of invisibility. This space of invisibility provides a respite from the public and political matters and is known to us as the *private space*. This space serves as a hiding place, from the public gaze, to which individuals move as soon as the moment of action has passed. But since the space of appearance comes into being when individuals get together and disclose to each other their unique identities through action and speech (the two activities *praxis* and *lexis* that according to Aristotle constitute *bios politikos*) does it come to an end when acting individuals disperse and move back into their private shelter? Arendt

writes that the space of appearance ‘... disappears not only with the dispersal of men – as in the case of great catastrophes when the body politic of a people is destroyed – but with the disappearance or arrest of the activities themselves’ (Arendt, *The Human Condition*, 1998, p. 199). This is the reason that movements and organizations end only when the purpose for which they were brought into existence is achieved or when its pursuance is left altogether. The space of appearance outlives the moment of action that brought it into being and remains intact even in the absence of any participant. But what is it that keeps it intact even when the doer of the deeds and the speaker of the words are not participating in it? (See section 2).

Furthermore, this private space is also the realm of contemplation. Inner freedom is what gives this space its uniqueness, avers Marcuse⁴, as it is here where one can be himself, where it is possible to have a temporary respite from the actualities of public life (Marcuse, 2002, p. 12). It’s the realm where negative thinking can manifest itself as a negation of reality as it appears. It is, therefore, space where the most inconspicuous of individuals by profession, the philosophers, begin their ‘theoretical life’ (*Bios theoretikos*) by deliberately withdrawing from the community of human beings (Arendt, *The Life of the Mind*, 1978, p. 90).

A close reading of the chapter on *Action* of Arendt’s “*The Human Condition*” suggests that there exists another space of invisibility characterized by deliberate non-participation in the world of human affairs. There’s individual volition involved here since the one who inhabits this *space of disappearance* has willed not to take the initiative to appear among others and has, as such, refused to disclose his identity⁵. To deny to manifest one’s self in the shining brightness of the public realm is to deprive oneself of reality since in Doing so one refuses to take

that initiative 'from which no human being can refrain and still be human' (Arendt, *The Human Condition*, 1998, p. 176).

Nonetheless, both the spaces of invisibility hold one thing in common; the always present potential to become visible; to appear in the luminous realm of the political out of the darkness of private space, and the space of disappearance just like the birth of day from the womb of night. As in Greek mythology, the darkness of *Nyx* ('Night') gives birth to *Hemera* ('Day'). Unlike the space of enforced disappearance, the period of political inactivity that characterizes these spaces of invisibility can be ended at any moment by taking the initiative to appear. The space of enforced disappearance is more like *Erebus*, the primeval darkness born out of Chaos directly, into which are thrown, impertinent individuals. Since *Erebus* exists outside the inhabited universe like *Hades* (the 'Underworld' where the dead ones go/the 'god of dead'), the light of *Helios* (the Sun) never reaches it. The space of enforced disappearance, like *Erebus* is similar to but is not identical with the realm of the dead⁶.

Section - 3: Power in Appearance and 'Forced' Disappearance

When people act in concert in the manner of speech and action and thus appear to each other in symmetrical relations of visibility they generate relations of power, or in other words, they actualize the power potential through their actions that attract or repel attention (Marquez, 2012). This power that springs when individuals act together preserves not just the space of appearance but also the public realm; the potential space of appearance (Arendt, *The Human Condition*, 1998, p. 202). Equality is the fundamental characteristic of the space of appearance since there is no hierarchical organization of

relations in this space as each participant reveals and appears to the other as equal and distinct. Due to this symmetrical structure of the space of appearance the power that springs up is not distributed unequally but is horizontally distributed among all the participants in such a way that each member is capable of mobilizing the collective action of the whole, since 'power is nothing but the ability to mobilize coordinated group action or action in concert' (Marquez, 2012).

Since there are no blocked relations in the space of appearance, an action by one calls forth action in the other, and so on. This unrestrained multiplication of action, therefore, gives rise to power that too is boundless and is symmetrically distributed among all the actors (Arendt, *The Human Condition*, 1998, p. 201). However, this power that comes with appearing is not indestructible and it can, indeed, be countered by the use of *force* in the form of violence.

Now, keeping in consideration the entire discussion done above let's shift the focus to the phenomenon of enforced disappearance. The very term 'enforced disappearance' implies that this state of invisibility in which a person finds himself is not the one he has deliberately chosen but is the one imposed on him. Following Arendt's arguments on appearance and action, we can say that the one who disappeared by force loses all political identity. The disappearance that is assumed by the one detained as such is made possible only because of the existence of the unknown and the unknowable, the invisible and the invisibilizing space that he inhabits; the space of enforced disappearance. As utter negation of the space of appearance, this space is characterized by relations of inequality and where the only power that manifests itself is the sovereign power maintaining its relation to the captive body through the exercise of violence. The inhabitants of this space are denied any participation in the world of human affairs and

exist in a condition of enforced '*singularity*' and, therefore, not only are they reduced to a state of permanent political inaction but their very connection with the intersubjective world is also broken (and dies with it the very possibility of resistance).

The individuals trapped in the space of enforced disappearance are no longer perceivable to the public eye for the very space that they inhabit is impervious to the public gaze. Since the disappeared is no longer part of the space where one can be seen and heard by others who are equal to and distinct from oneself as the door to the public realm has been closed on him, the shadowy existence that the disappeared is made to live, therefore, can no longer be regarded as human existence. For to lead a human life is to be among others (*inter homines esse*) in the manner of speech and action. Human life, according to Arendt, is active life, or in other words, the life that is lived in the shining brightness of the public realm. Therefore, the life that can be regarded as human, according to Arendt, is the political life, or to what Aristotle referred to as *bios politikos*. Based on that, we can say that the one disappeared by force is dispossessed of the ability *to initiate* a political life. The state of existence into which one has been forced to be through the exercise of sovereign violence is that of impotency and non-politicalness. Can it be said then that the life of the disappeared in this zone of dispossession is nothing but mere natural life or *zoe*? For those who appear and are, thereby, political can only be *dispoliticized* (borrowing Banu Bargu's term) and disempowered by the use of force. And we know from Arendt that the power that comes with appearance can only be countered through force that isolates individuals, thus contradicts plurality, and reduces an individual to mere physical strength.

Section – 4: Space of Enforced Disappearance and Bare Life

The space of enforced disappearance consists of the modern *invisible penal architecture* (another term used by Banu Bargu (2014)) that exists *outside* the law and it is because of its very exteriority that this space can also be referred to as an *exceptional* space. The state of exception is a no man's land between order and chaos, between inside and outside; it's the zone of indistinguishability that does not arise through the enactment of a special kind of law but rather comes into being through the suspension of the juridical order itself (Agamben, *State of Exception*, 2005, pp. 1,4). The secret detention facilities of the present correspond to the space included in the state of exception where the rule is suspended and the norm is annulled. One thing to be made clear here is that it is not the state of exception, as Agamben avers (Agamben, *Homo Sacer: Sovereign Power and Bare Life*, 1998, p. 18), that suspends the rule but, rather, it is the rule that by suspending itself gives rise to exception, which implies that there does exist a link between rule and exception that will become clear as the argument further develops.

In the high-security secretive detention facilities, also known as black sites, the state of exception becomes spatialized. These sites of captivities exist outside both the international law and national law and, following Agamben, it can be argued that their very exclusion from the juridical order; from the rule that has suspended itself gives them the exceptional structure of 'being outside, and yet belonging' (Agamben, *State of Exception*, 2005, p. 35). In other words, the law applies to the exception in its non-application and thus in its very exclusion includes it into itself. Agamben calls it the 'relation of exception', which is an 'extreme form of relation by which

something is included solely through its exclusion' (Agamben, *Homo Sacer: Sovereign Power and Bare Life*, 1998, p. 18). If the space of enforced disappearance, devoid of any law, is a space of exception then that which is excluded into it is caught in the sovereign ban. *Ban* refers to the application of the law through its suspension and caught in the sovereign ban is nothing but life itself (Prozorov, 2014, p. 101). We concluded in the previous section that the *disappeared* by virtue of not being among *others* has been ripped off all political qualities and as a *dis-politicized* individual – dispossessed of all the characteristics of *bios* – is reduced to life in its natural form *zoe*, essentially non-political, characterized only by its vegetative function and physical *strength* needed for the production of means of subsistence. But the dead body of young Sangat Sana Baloch, one of the victims of enforced disappearance, with marks of torture and wounds of 27 bullets that were unloaded into his chest when founded on 13 February 2012 told the story of a helpless *body* on which was unleashed brutal violence by state security agencies. The condition in which he was kept and the violence to which he was exposed shows that his was not simply a *dis-politicized* life in its natural form. To know our answer we must first understand who is the bearer of the sovereign ban according to Agamben?

Caught in the sovereign ban is the life that is not simply 'set outside the law and made indifferent to it but rather abandoned by it, that is, exposed and threatened on the threshold in which life and law, outside and inside become indistinguishable' (Agamben, 1998, p. 28). Agamben avers that the life that is caught in the sovereign ban and captured in sovereignty is not regular natural life but rather a life that is exposed to death; bare life (Agamben, 1998, p. 88). Bare life is the originary political element and it comes into being through the politicization of *zoe* i.e. the inclusion of *zoe* into *bios* as a

result of its exclusion from the political order (Mills, 2018, p. 42). It can be, therefore, said that bare life is natural life that by virtue of being excluded from the political sphere is included into it (as its negative foundation) and is at all times exposed to violence. It's a life bereft of all legal protection excluded into the zone of indistinguishability where law and life, norm and chaos, inside and outside become indistinguishable. The production of bare life, a biopoliticized body, is the *original activity* of sovereign power. Bare life is the very point of intersection, Agamben avers, between the two modalities of power; sovereign power and biopower. Agamben's conception of biopolitics diverges from that of Foucault at this point. Unlike Foucault, it is argued by Agamben that biopolitics is as old as sovereignty and the production of bare life constitutes the hidden nucleus of the sovereign power. Whereas, with the advent of modernity this hidden original activity of the sovereign power – the politicization of life – has only been brought to the spotlight. In his own words:

Placing biological life at the center of its calculations, the modern State therefore does nothing other than bring to light the secret tie uniting power and bare life, thereby reaffirming the bond (derived from a tenacious correspondence between the modern and the archaic which one encounters in the most diverse spheres) between modern power and the most immemorial of the *arcana imperii*. (Agamben, 1998, p. 6)

The forcefully disappeared individual besides being deprived of the political and social identity that comes with appearance is also dispossessed of all political and legal rights⁷ as a result of his exclusion into the space of enforced disappearance – an exceptional space where all law is suspended. Stripped of all political, legal, and human rights the state in which the disappeared finds himself corresponds to the bare life caught in the sovereign ban. The disappeared are reduced to natural life

that is exposed to the force of law that applies to him in no longer applying (thus, in force without significance). They have been abandoned by the law in the hyper darkness of the secret detention facilities, bereft of all the positive prescriptions and directions of the law, and are exposed to unremitting violence whose ultimate expression is the sovereign's right to death. The space of enforced disappearance is a space, therefore, where the sovereign power and biopolitical power intersect each other. It's the space where the biopolitical body is produced and exposed to sovereign violence. In this space exist those who have been rendered politically irrelevant by the *biosovereign* regime.

Conclusion

The space of enforced disappearance is an exceptional space existing outside the juridical order where those who have been singled out by the state are disappeared. All those who disappear are involved in politically meaningful activity to which has been given paramount importance by Arendt. Since to act is to appear among others and is the only way that a human can be recognized as *human* by others, therefore, being deprived of the company of others and to be forced into the state of singularity means to dispossess an individual of all characteristics that constitute a human life. Denied to initiate the *bios politikos* the disappeared is stripped of all political qualities and is rendered impotent. The state of impotency that is imposed on him is the result of the destruction of the power, which comes with appearance, by the use of violence. The existence of the disappeared, who has been completely depoliticized and disempowered, corresponds in the space of enforced disappearance to the natural state of existence that is *zoe*, characterized by the its physical strength only. However,

we established that the life caught in the space of enforced disappearance cannot simply be natural life because the disappeared is in a state of continuous exposure to violence.

Since the disappeared is excluded into the space of exception he exists in a relation of ban to the sovereign and therefore is not simply set outside the legal order but is included into it through his very exclusion. The law applies to the disappeared in its non-application. The space that he inhabits is devoid of all law and as a result, the disappeared is not just dispossessed of all the protection and politicalness that is guaranteed by appearance but is also denied the protection of all legal, political, and human rights. Stripped of all protection provided by the law the disappeared is exposed to unremitting sovereign violence that almost always results in the death of the disappeared. The life of the disappeared is therefore not simple natural life but a life exposed to death; bare life. Since, the bare life that is produced through disappearance by force of those who appear or are engaged in political action that is considered by the state as a threat to itself, therefore, it can be said that in the modern state the sovereign right, besides being exercised as the power to decide who remains politically relevant and who not, is also exercised as the power to decide who appears and who does not and to what degree one can appear.

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¹ See, Aguilar and Kovras, 'Explaining disappearances as a Tool of Political Terror' (2018) 1-16.

² It might seem to be a contradiction that the space of appearance arises from the human activity of action (when individuals act in concert) and also is presupposed by action to manifest itself. The world of human affairs i.e. the public realm, becomes possible only through political action and this realm does not exist for one generation because it '*transcends the life-span of mortal men*'. Therefore, each human being is born into a world that precedes and will outlive its existence. See Hannah Arendt, *The Human Condition* (1998, 55).

³ See Hannah Arendt, *The Life of the Mind*, 70.

⁴ However, in the modern advanced technological societies, according to Marcuse, this space has 'whittled down' and the processes of introjection are being supplanted by mimeses. The closure of this space where negative thinking could occur is resulting into the loss of critical power of reason that has become increasingly uncritical and has submitted to the 'facts of life'. See Marcuse, *One-Dimensional Man*, 12-14.

⁵ What is it then that makes a philosopher's deliberate act of withdrawal from the community of human beings into the private space different from the withdrawal of a person into the space of disappearance? Whereas, the philosopher abstains from participation in the public realm because he, according to Arendt, is engaged in the activity of thinking that can take place only in the presence of the '*leidenschaftslose stille*', 'the dispassionate quiet' (see *The Life of the Mind* 1978, pp. 68, 90) and is not possible in the *askholia* (unquiet) of the *vita activa* (see *The Human Condition* 1998, pp. 15). The philosopher's non-participation is not marked by complete inaction, unlike those who inhabit space of disappearance marked by complete political inaction, since in this realm negative thinking becomes possible which is a search for truth so when:

'... the philosopher takes leave of the world given to our senses and does a turnabout to the life of the mind, he takes his clue from the former, looking for something to be revealed to him that would explain its underlying truth. This truth—a-*letheia*, that which is disclosed (Heidegger)—can be conceived only as another 'appearance,' another phenomenon originally hidden but of a supposedly higher order, thus signifying the lasting predominance of appearance' (*The Life of the Mind*, 1978, p. 29).

Another important point I want to make here is that in this concept of the space of disappearance Arendt's argument on the closure of the world of action and that of Marcuse on the emergence one-dimensional society converge. The rise of the social realm is marked by the inclusion of the private into the public/political universe and in the modern 'society' the rule of one man that was characteristic of the private realm of household has been transformed into the dominance of one-interest and one-opinion of the society. Society posits levelling demands on its members expecting from them to not 'act' but to 'behave' in a specific manner. It imposes normalizing rules on its members to guarantee that they conform to the one-interest of the society. In promoting this conformism the society excludes the possibility of action, the main function of which is to appear as unique and distinct contrary to the sameness that the one-interest of society imposes on its members. In mass society equality exists only in conformity since 'to act' has been replaced with 'to behave'. Spontaneous action is considered non-behaviour and those who commit it non-compliant, impertinent, and dissident and therefore action becomes a mere outlier, a fluctuation, an aberration that has to be levelled out, re-normalized or excluded completely. Those who dwell in the space of disappearance are for this reason inactive, docile, compliant individuals who do not act but behave; who do not negate but affirm the status quo. Marcuse, similarly, argued that the modern mass society is characterized by its one-dimensionality, the reconciliation of all conflicts and oppositions both in the universe of political and that of discourse through new forms of social control.

⁶ See Nanno Marinatos, 'Light and Darkness and Archaic Greek Cosmography' in *Light and Darkness in Ancient Greek Myth and Religion*, by Menelaos Christopoulos, Efimia D. Karakantza and Olga Levaniouk, Plymouth: Lexington Books, 2010), 198-199.

⁷ For example in Pakistan those who are detained incommunicado for indefinite period in anonymous detention facilities are stripped of the protection against the deprivation of life and liberty that is provided to them under the Article 9 of the Constitution of Pakistan. The disappeared is also deprived of the right to be produced before the magistrate within 24 hours of detention secured under Article 10(2) of the Constitution. For more see Badalič, 'The War Against Civilians: Victims of the War on Terror in Afghanistan and Pakistan', 159-161 and Human Rights Watch, 'We Can Torture, Kill, or Keep You for Years', (2011).