Biography

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Bibliography
Author selection of six items. Complete list available from the author.

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DEFINING CRIME: Signs of Postmodern Murder and the “Freeze” Case of Yoshihiro Hattori

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Eight of every ten people in America can expect to be a victim of violent crime at least once in their lives. (U.S. DJ, BJS 1987)

There is an expectation of crime in our lives. We are in danger of becoming captive to that expectation, and to the new tolerance to criminal behavior.... Raymond Kelly, Former Police Commissioner of New York City (cited in Moynihan 1993)

When an innocent child is shot by mistake and the guilty party is let off scot-free, we can only conclude that such a society is sick. Mieko Hattori, Yoshihiro Hattori’s mother (cited in Reid 1993: A22)

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1. Prolegomena

The murder of a Japanese exchange student in a Baton Rouge suburb on the night of October 17, 1992 became a sensation in both the Japanese and American (USA) media. The best way of explaining this event is to see it as a late modern phenomenon, which amounts to a senseless killing. What moved Rodney Pearis to kill Yoshihirc Hattori was "fear". The criminal trial turned into a classic modernist "reading", whereby this emotion was judged to be a rational justification by the jury.

Critiques of modern rationalism, especially method, launched by various scholars such as Hume, Kant, Rousseau, and more recently Nietzsche, and Gebser (1949/1985), are more radically postmodern than Derrida’s neo-Heideggerian deconstructive strategy. Deconstruction relies on linguistic reductionism and the metaphysics of binary oppositions such as center/margin, trace/tracing, sight/hearing construction/deconstruction, and so forth. Postmodernism need not be oppositional to modernism. Put another way, postmodern integrity need not, indeed cannot, play by modern rules. In so far as Saussure’s anxiety about time and obsession with digital thinking is presumed, Derrida’s deconstructive tactic relies upon a simple two-valued difference.

Gebser argues that binary thinking itself is a unique (often intolerant) mode of perception, indicative of the modern perspectival consciousness structure (1949/1985: 4). The presumption of binary logic at the ontic center of Heidegger’s philosophy also weakens any claim that he is “postmodern”. As Walter Kaufmann (1980) noted long after Gebser, “For all his talk of temporality and historicity, there is no evidence in Sein und Zeit that it ever occurred to Heidegger that his ‘existential ontology’ or ‘existential interpretation’ or ‘hermeneutic of human Being’ might tell us more about him and his time than about Being, or that it was naive to ask about the meaning of Being” (1980: 197), (See Kaufmann’s critique of Heidegger’s Nietzsche, and his “resoluteness toward death”, and “authentic being”, and his secularized Christian dogmatism in “being guilty”, 1980: 197-205, 209-224; and also T. K. Seung’s review of the tortured application of Daseinanalysis to non-western cultures 1982: 170-175; and Gebser’s critique of Heidegger’s binary obsession with Being and being, and Being and Nothing as a re-hash of the modernity of Duns Scotus and Nicolas Cusanus, 1949/1985: 180, 186). So it is that Gebser and Nietzsche are the preferred sources for our analysis.

2. Brief Introduction to Gebser’s Theory

We seek to apply the theory of consciousness mutation, originally developed by Jean Gebser in the 1930’s, to explain the Hattori “freeze” case described below. Gebser (1949/1985) accepts the fundamental tenet of hermeneutics that all perception is always already valuated, a notion well developed by Von Humboldt (1852/1973) and Nietzsche (1882/1974). In short, one cannot separate the observation from the observer. All (including “objective”) perception is always already interpretive, and the meaning of perception (to put it into metaphysical terms) has “real” behavioral consequences. In fact behavioral consequences of any complexity are always the result of interpretations. Otherwise, all that can be discussed is a sort of Newtonian behavorism wherein a human body in motion “reacts” to an “outside” force such as a push or strike. But of course this too presumes the Cartesian (actually Cathari) duality, which created the subject and the object as opposing, even mutually excluding, realities. The widespread obsession with modern spatial metaphysics and causation leads to the wholesale rejection of “inner forces”, just as values and motivations as being unmeasurable and therefore fundamentally unknowable—nonexistent.

Interpretation/perception according to Gebser, is the fundamental consciousness structure that characterizes the world of the social agent. A consciousness structure is expressed by its constitutonal characteristics revealed by what things mean even at the metaphysical level of perception evidenced by cognitive activities as selective perception, attribution, and semantic differentiation. Attitudes and opinions, which are manifested as behaviors, are always already active in the synthetic process of constituting perception. Transactional psychology recognized the hermeneutic circle decades after its articulation by Ranke (1829-1880/1973), von Humboldt (1833/1973), Bultman This includes the level of “passive synthesis” (Husserl 1913/1962), presuming neither dualistic reflection, nor “intention”.

Semiosis is not guided by conscious reflection or transcending design. Even for the perspectival human, meaning is not reckoned although the modern presupposes the Cartesian separation between text and reader and reading and meta-reading (criticism). In late modernity the spatialized arrogance of transcendence has enabled the emergence of the critical attitude, which announces itself ironically to be purified of perspective, to be objective.

Gebser argues that there are various forms of consciousness structures (“a-wareings”) that are directly experienced (the only way) as different “realities”. The fact that different people live different
Dissociation is not evident and as such there is little fetish or "extensions" of mind to "reflect" upon.

The idea of "distortion" which presumes a comparatively different state of awareness (methodical or paranormal or whatever, whereby the observer has "direct access to" the noumenal realm, what Maurice Merleau-Ponty (1946/1964: 18) calls "immaculate perception", is pure hypothetical speculation (Kramer, 1992b). To be able to speak of "distortion" presumes that one has immaculate access to the pre-distorted "real", to be able to somehow escape one’s self, one’s "cognitive filters" (ala Kant, or Bacon’s "idols", or much later and less rigorously B. A. Fisher’s "filters", 1978) and then compare the "real", or noumenal realm, with the phenomenal realm of direct personal awareness (see Kramer, 1992b). Of course the only kind of awareness is direct, personal: subjective Semiosis is always already. Meaning, or to speak like a calculating cognitivist, "cognitive weighting" (salience) is always already given through passive synthesis (Kramer 2000a). In other words, immaculate perception ("disinterested" disembodied "objectivity") is unknowable as such, and probably is does not exist in any case.

2.1. Dimensional Accural/Dissociation

To adequately explain the shooting of Yoshihiro Hattori, a simple semiotic model is not adequate. Therefore a more complex approach is offered in this article. What follows is an explanation based on a complex model that postulates that there are at least three modes of communicating/living (comparativesemiosis) and that they manifest varying levels of dissociation or abstraction. This theory is an attempt to synthesize various ideas, including Gebser’s model of consciousness structures and Lewis Mumford’s (1934/1962) neo-Nietzschean notion of dissociation (language being a fetish that simplifies experience) in order to present a new comparative theory of communication. According to Eric Kramer’s (1997; 2000b) theory of dimensional accrual/dissociation (DAD), when comparing the one-dimensional magic structure with the two-dimensional mythic and three-dimensional perspectival structures, it becomes evident that the world becomes increasingly abstract, dissociated as dimensions add up. As this occurs, the perceiver has less and less emotional attachment with the world. Likewise, modes of expression (1-D idolic, 2-D symbolic, 3-D signaltic) come to be seen as less and less motivated and more arbitrary. For instance, meaning and sense cannot be separated from idolic expression. With mythic symbolism we see the emergence of a polar tension between the figural and the...
The magic world is univalent wherein a one-dimensional unity is expressed by global identity and exchange. Dissociation or abstraction is evident as ritualistic effort to confront and modify natural and supernatural forces. The predominant mode of expression in the magic world is idolic. The magic world is characterized by equal validation and significance without differentiation as in *pars pro parte* (a part for a part), *totum pro parte* (the whole for the part), and *pars pro toto* (a part for the whole) (Gebser 1985: 50; Malinowski 1948; Campbell and Moyers 1988). In modernity, idolization is widespread especially as personification or the identity of a media icon with various powers promoted in consumer culture. This is evinced by various forms of “fan behavior” such as “stalking” and acting as groupies. Well before Foucault or Kuhn, Gebser insisted on a discontinuous notion of history whereby so-called “extinct” structures of awaring are “presently” effective (1949: 37-42).

The magic world does not exhibit an awareness of space or time as abstract, transcendent “constants”. Magic sympathy and affectivity is without direction or duration. Magic rituals articulate a one-dimensional world of cave-like interiority manifesting utter darkness and nonorientation.

2.3. Mythic Consciousness

By comparison, the mythic world is ambivalent. It may be expressed by androgyny, for example. Ambivalence calls into awareness interpretation as a problem. Nascent criteria such as validity and reliability though unfixed are emergent concerns leading to dissociated yet interested verification. The predominant mode of expression is symbolic. The mythic world is a world of emergent two-dimensional polarity, not perspectival (oppositional) duality. What exists in the mythic world is psyche (emotion), not self, ego, or mind. Mythic polarity is characterized by “...an abiding accompaniment to every consciousness emergence...” (Gebser 1949/1985: 71). Every experience is accompanied by its polar bivalence. For every active part there is a passive polar complement that is unspoken, silent, invisible, yet present. Sky implies earth, male-female, birth-death, sacred-profane, and so on.

In mythic language often a word can be used for both polar complements thus indicating the ambivalence of the mythic world. In the mythic world such complementarities are poles of a single aspect that is not rendered completely separate as in the perspectival world. Ambivalence, rather than perspectival contradiction, is the hallmark of mythic polarity. For example (Gebser 1949/1985: 65):

The corresponding verb for *mythos* is *mytheomai*, meaning “to discourse, talk, speak”; its root, *my-, means “to sound”. But another verb of the same root, *myein— ambivalent because of the substitution of a short “u”— means “to close”, specifically to close the eyes, the mouth, the wounds. From this root we have Sanskrit *mukas* (with long vowel), meaning “mute, silent”, and Latin *mutus* with the same meaning. It recurs in Greek in the words *mystes*, “the consecrated”, and *mysterion, “mysterium”, and later during the Christian era, gave the characteristic stamp to the concept of mysticism: speechless contemplation with closed eyes, that is, eyes turned inward.

While myth is related to mouth it combines the polar aspects of both speech and silence emphasizing the necessity for interpretation of the “hidden” or silent meanings, hence the importance of oracles, diviners, and messenger gods such as Hermes. The mythic world manifests an emergent separation of ego as the polar implication of other.² Myth is a stress toward communication, toward making audible, to announce, interpret, and report.
The problematization of communication *sui generis*, indicates a nascent awareness of space (directionality) self (as expressed), and power manifested as susive egological desire (personal interest). As part of mythic dissociation, communication, as such, along with personal will and spatial awareness, begins to emerge as a distinct phenomenon in the world. This explains the emergence of a rather sudden and intense interest in elocation, logic, and argument. Communication implies a need to span space (theatrical distance) as Plato in his *Seventh Letter* equates soul with sky, breath, and emotion. Mythic metaphor is still evident in the many communication models that literally use arrows and feedback “loops” to imagine the “path” discrete and atomized “information” (as a thing in itself) “follows” between a “source” and a “receiver”.

2.4. Perspectival Consciousness

The perspectival world is predominantly paternalistic. The first word of the first verse of the first canto of the first major work of the Western world, the *Iliad*, is *menis* (the accusative of *menis*). The Greek word *menis*, means “wrath” and “courage”. *Menis* comes from the same stem as *menos*, meaning “resolve”, “power”, “conviction”. In turn the Latin *mens* means “intent”, “anger”, “thinking”, “thought”, “understanding”, and “deliberation”. Here we can see the emergent separation of mind and personal identity as a communicative fetish from the rest of the world. With this too comes the split of culture from nature, which posits an adversarial “relationship”, constitutively a will to combat natural forces and to make. Of this brief etymological survey Gebser argues that (Gebser 1949/1985: 75):

What is fundamental here is already evident in the substance of these words: it is the first intimation of the emergence of directed or discursive thought. Whereas mythical thinking, to the extent that it could be called “thinking”, was a shaping or designing of images in the imagination which took place within the confines of the polar cycle, discursive thought is fundamentally different. It is no longer polar-related, enclosed in and reflecting polarity from which it gains its energy, but rather directed toward objects and duality, creating and directing this duality — drawing energy from the individual ego.

The *Iliad* articulates an image of action that is directed, causal, and willfully ordered: strategic. Also told here is a story of wrath and anger that characterizes the hero-ego who disrupts the clan and community. From the early ancient Greek *menis* is derived “man”, the perspectival *standard* by which to evaluate all other things. The split between process and product emerges. What good something or someone is, is determined by what they can produce. *Praxis* is bifurcated as *techne* is “liberated” from *phronesis*. As Nietzsche (1880/1997 Sec. 11) notes that “freedom of will and isolation of facts” are simultaneous, that the indivisible flowing of experience is atomized in the interest of “knowledge” truncated to the act of dividing the future. Here too we have the invention of number and the absurd “positive” ideology of the good as utility, the “nobility of labor” for its own sake and the elevation of the pious self-hate of ascetic discipline. According to “systematism”, to be conceived as useful and exploitable becomes the good as such.

All of this is driven by the origin of metaphysics, the first grand technology or “putative science”, as “the significance of language for the evolution of culture lies in this, that mankind set up in language a separate world beside the other world, a place it took to be so firmly set that, standing upon it, it could lift the rest of the world off its hinges and make itself master of it” (Nietzsche 1878/1997: Section 11). Why? In order to gain “knowledge” of the world, to make the strange appear familiar. In the very act of rationalization we encounter the most fundamental magic aspect of language, which is the belief that in the act of naming a thing, one gains power over it, can steal its soul or essence and manipulate it according to interests and “reasons” (grammars, logics).

The point is that what is pre-conceptual has a depth that is unarticulated and unmatched. It is the depth of the “flesh of the world” and it is also pre-logical. It is here that we must go to understand the killing of Yoshito Hattori (Merleau-Ponty 1964/1968; Levinas 1961/1969). The attempt to make an argument for it, to explain and rationalize it is an expression of a perspectival legal system trying to cope with the full force of being human, all too human. Our best efforts lead only to story, narrative, myth; a way to make sense of the senseless. Then we feel certain and safe within the fetish of our own making.

When or wherever modernity is manifested, or more precisely perspectival mental-rationality there is a separation between culture and nature, the speaker and the audience (theater), three-dimensional space (scales of all sorts, free standing sculpture, and architecture) and disputational logic (dialectics), and in its extreme form the monologic of Aristotle. In Western Europe, modernity was disrupted for about 1500 years by a resurgence to prominence of both magical and mythical consciousness, the so-called “Dark Ages”, and was then reborn about 1200 (the Renaissance). When mythical and magical Medievalism dominates (anywhere), the either/or conflict of perspectives manifested as cause or effect, presence or ab-
sence, permanence or flux, is “obscured” by ambivalence. Hence the Catholic Church’s ability to incorporate all sorts of deviations in worship.

As perspectivism occurs, the mythic cycle is ruptured, disrupting the two-dimensional mythic world of imagination (Latin *imago, “image”). The Latin notion of *ratio* manifests the perspectival concern with reason derived from Aristotle’s definition of man as the rational animal. The word *ratio* means, “to reckon”, “to calculate”, “to think”, and “to understand”. Man “grasps” that which is now separate from him and conquers it.

In the modern perspectival world, the predominant mode of expression is the totally dissociated sign. Different from metaphorical ambiguity, clarity is achieved through binary contradiction. While the symbol “stands in for something else”, the modern sign is thoroughly arbitrary yet intolerant. Clarity is achieved by definition and imagination is ridiculed. The intolerance (anger) of logical laws such as the law of noncontradiction displaces ambivalence. The interpretive project is displaced by logical reductionism (ala Hegelian and Straussean deterministic structuralisms and scientism generally). “Necessity”, with its stresses becomes a central concern. Once facts are established, debate is irrelevant. Since values cannot be rationally discussed they are marked as off limits for serious articulation. Scientism reigns as the only legitimate discourse. Communication is reduced to informatics, which dissociates meaning into “bits” like “semes”.

*Ratio* presents the principal characteristic of the perspectival world: “directedness and perspectivity, together with — unavoidably — sectorial partitioning” (Gebser 1949/1985: 74). From Fragment B 50 of Heraclitus on, ratio is associated with *Verbum*, with the cosmic law of eternal logic, the necessary in thinking and reasoning (Heidegger 1954). This is a tradition that marginalizes the preconceptual world of being, denying it existence ever. In accord with ratio(nality) a process of intensifying dissociation and intolerance emerges. Polarity becomes duality, and a new awareness dawns: that of space as such. Correspondence and complementarily no longer apply. The stress is on spatial coincidence, absolute arbitrariness. Things lose their connectedness their mutual relatedness found in mysteries and magical phenomena.

For instance, Aristotle’s enthymeme expressed a new attitude, which reduced knowledge of the real to accident, probability (1926: 25-29). The Latin *arbitrarus* is derived from *arbiter*, signifying law and dictatorship. But while statisticians present probabilities, they believe in them absolutely. The mathematics which generates probabilities is not itself seen as being only probably correct.

Mediation between separate positions becomes the source of method and media in the modern world. The philosopher/scientists the arbiter of truth about a world “out there”. *Rhetoric* becomes the arbiter between theory (science) and action. Increasingly, only unambiguous action “counts”.

While the magical world is univalent, and the mythical ambivalent, the perspectival is trivalent. Depth and distance characterize perspectivity. Getting from the “drawing board” to materialization becomes a critical problem requiring “super”-vision. Objective observation and insistent reductionisms become thinkable. Modernity is rooted in the two main traditions of the Western world. These are the classical Greek notion of dialectical epistemology, and the Judaic-Christian portrayal of singularly identified (centralized) sources of good and evil, grace and sin; Yahweh versus Beelzebub.

While the modern sees binary oppositions, the magical and mythic human sees symbiotic identities and complementary polarities such as the yin and yang of the *I Ching*. Rather than premodern harmonics, the modern even insists that knowledge itself be born of dialectical conflict, which requires “referees”. Such a mode of being rejects in principle any commensurability between “opposites”. Hence the struggle between structural method and hermeneutic nonmethod, permanence and flux, object and subject. Either one dominates and explains the other (out of existence) or rejects it as totally inadequate to begin with. Thus paradoxology is the companion of modern two valued analytics.

Gebser demonstrated that two-valued variability is itself a hallmark of the perspectival mental-rational structure that is modernity. He argued that the origins of various understandings are rooted in the various structures of awareness. By taking the exegesis of comparative cultures to this more fundamental level he offered a unique and very powerful theoretical dimension to what is otherwise a rather banal and grossly simplistic typological mode of explanation.

3. Non-Reason and Justice?

Our present article examines the shooting case of Yoshihiro Hattori known as the “freeze” case. It is a good example of an uncanny (“senseless”) murder made even more enigmatic by the intercultural dimension of the event. Race, clothing, movement, and language all signified to Mr. Rodney Pears, danger. These phenomena did not present themselves to Mr. Pears as dissociated symbols in need of interpretation or as even more dissociated signs that could mean anything. Rather, Mr. Pears experienced the *fait accompli* of viscer-
al fear (as spaceless and timeless magic immediacy). By examining this particular case, our analysis unfolds the essential constitution of the late modern attitude/consciousness. After so many sociological, criminological, ideological, psychological, and other perspectives have failed to explain the late modern condition, our analysis applies Gebser’s “etiological” and “synairetic” integration of poliversality and Kramer’s (1997; 2000b) theory of dimensional accrual/disassociation to explain the multiplicity of meanings that a single event can simultaneously express.

Following Barthes’ (1957/1972) neo-Nietzschean critique of positivism’s attempt to objectify, and thereby, drain the lifeblood of history and ideology from texts (thus creating the “alibi” of naturalism and sterile apolitical presence), our approach brings to the fore socio-historical context as a necessary condition for understanding the event/text. Just as Barthes rejects the positivist attempt to ignore (self-imposed ignorance) or marginalize the facts of French colonialism in Africa, our article introduces many facts about the current late-modern condition of the United States of America. The power to delegitimize context, expressed by the discursive structure of the modern (Benthamite) courtroom is more than being empirical. It may be called “vampirical” in its attempt to petrify time, pull the shades against context, and establish once-and-for-all the truth. The purpose of this alternative approach is not to establish the guilt or innocence of an individual, but to understand the co-constituitive sense of the text/context.

The death of Yoshihiro Hattori might be called a case of post-modern murder, but it is more accurate to call it a recendence into an attitude predominated by “deficient” (meaning nonparticipatory) magic and myth. Our discussion attempts to understand, but not explain, both the event and the acquittal of the shooter. Although Mr. Peairs was acquitted by the jury in the criminal trial, on September 15, 1994 in the civil trial, State District Judge Bill Brown found Peairs guilty saying that “There is no justification that the killing was necessary to save himself or his family” (“Hattoris Compensated” 1994: 2). In short, there was no reason for killing the Japanese youth. However, there were non-reasons.

Did Peairs have any “reason” for shooting Hattori other than “fear”? The uncanny aspect of this and many late modern killings is the sense that they are the same as murder, but also different in an unsettling way. Many late modern “murders” defy reason. Late-modern killers often lack any discernable motive. They don’t even allude to “fun” as a cause.

4. A Halloween Horror Story

On the night of October 17, 1992 in a Baton Rouge, Louisiana (USA) suburb called Central, mentalities crossed. In a modest working-class tract home a family of five was just sitting down to dinner when two 16 year old boys were driving to their neighborhood in search of a Halloween party. The father of the family at the dinner table was Rodney Peairs, a 31-year-old assistant manager in the meat department of a local supermarket. Some in the press preferred the designation “butcher”. His wife, Bonnie Peairs, “home-maker” and mother of three children, was also present at the table.

The two boys were a 16-year-old American Caucasian, Webb Haymaker, and Yoshihiro Hattori, a 16-year-old Japanese exchange student. The host family included Richard Haymaker, a physics professor at Louisiana State University, Holly Haymaker, a physician, and Webb their son, who had decided to take his guest Yoshihiro to a Halloween Party. Webb Haymaker had recently broken his arm and so he had rapped bandages on other parts of his body in order to portray a seriously injured accident victim. Yoshihiro was dressed like a character John Travolta had played in the 1970’s hit dance-movie Saturday Night Fever. Accordingly, Yoshihiro was wearing a white tuxedo and an audacious display of costume jewelry and of course his exoticism manifested in the flesh of his oriental features. The boys had assumed that on Halloween, to be strange looking was normal. The aporia of Halloween is a time for masking identities so that one can unmask one’s true desires.

The two boys were six houses from the party when they mistakenly went up to the Peairs’ house and rang the doorbell at the front door. The Peairs’ home had a large “Happy Halloween” banner on the front porch, and other holiday decorations, which, according to testimony, attracted the boys. Mrs. Peairs, dressed in a robe, with one child following her, answered the door. At first she saw Haymaker a “few yards away” who said “We’re here for the Party”. Then she saw Hattori come up. Her valued reaction and shift into “spaceless-timeless magic consciousness” is the key to understanding everything else from this point.

Upon seeing Hattori she slammed the door and “screamed” to her husband to get his gun. Meanwhile, the boys had moved back to the sidewalk. Without another word of explanation or request for clarification, Rodney Peairs rushed to his suitcase and pulled out his fully loaded .44 caliber magnum revolver with laser scope. Without exchanging any words with his wife, Mr. Peairs rushed to the door that led out to the carport opened it and stepped outside. The boys...
approached. He yelled, "freeze." Haymaker stopped but the Japanese boy, who did not understand the pop culture idiom, did not. He continued to "skip" toward Peairs and smile, even though Peairs had raised his gun and verbally warned him to stop. It was testified that Yoshihiro had lost one of his contact lens earlier that day so that it is unlikely he could see Peairs' gun. Peairs testified that the boy was carrying something that looked like a gun. Peairs shot Hattori at "point-blank range" in the chest. It turned out that Hattori was carrying a camera.

Inexplicably, as Hattori lay dying, Mrs. Peairs shouted from a window at a neighbor to "go away" when he inquired if they needed help. Mr. Peairs went back into the house, locked the door, and did not come out until sheriff's deputies arrived approximately 40 minutes later.

5. Legal Valuations: The Search for Causal Reasons

In the interest of precision, the modern mentality attempts to explain events logically and to assign importance to phenomena by numeric signs. This is also the case with situations where one person kills another. Like all criminal codes concerning homicide, the Louisiana statutes comprising the criminal code for "offenses against the person" distinguish between "degrees" of "murder", "negligent homicide", and "manslaughter". In most states, there are also delimited "degrees" of manslaughter. According to some ("Yume wa Nihon" 1993) Japanese law is vague by comparison. However, as shall be demonstrated, this is not true. In the United States, the most pertinent decisions are left up to the jury, which means that lawyers' rhetoric, and not any written law, is the most important defining source of "criminality". Despite the efforts of the Benthamites, the modern court of law is still permeated by magic and myth.

The criteria for determining which degree of murder pertains, is contained in the legal definitions of each category of acts. According to the Louisiana statutes, "The Louisiana Legislature has never defined murder. By express mandate of the Crimes Act of 1805, courts have looked to the common law for its definition" (LSA 1986: 175). Thus, the state has relied on past decisions by juries to interpret the most important phrases of the code such as the "heat of blood", "aggravation", "negligence", "adequate provocation", "malice", and "aforethought". What separates "first" from "second degree" murder is the absence of an intent to kill while committing aggravated escape, aggravated kidnapping, aggravated burglary, aggravated arson, aggravated rape, armed robbery, et cetera. "Aggravation" means an assault that is "more serious" than a "common" assault. The difference between murder and manslaughter is, "not in existence or absence of an intent to kill, but in existence or absence of malice aforethought" (LSA 1986: 173). "Felonious homicide" is defined as, "killing of human being without justification" (LSA 1986: 173). "Negligent homicide" is the "killing of a human being by criminal negligence" (LSA 1986: 286). Consequently the Louisiana Grand Jury charged Mr. Peairs with manslaughter, rather than either murder "one" or "two". Both sides of the case agreed that Mr. Peairs acted with almost total lack of "aforethought". According to the Louisiana Statutes, Manslaughter is (LSA 1986: 249):

(1) A homicide which would be murder under either Article 30 (first degree murder) or Article 30.1 (second degree murder), but the offense is committed in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self control and cool reflection. Provocation shall not reduce a homicide to manslaughter if the jury finds that the offender's blood has actually cooled or that an average person's blood would have cooled, at the time the offense was committed; or
(2) A homicide committed, without any intent to cause death or great bodily harm.
   (a) When the offender is engaged in the perpetration or attempted perpetration of any felony not enumerated in Articles 30 or 30.1, or of any intentional misdemeanor directly affecting the person; or
   (b) When the offender is resisting lawful arrest by means, or in manner, not inherently dangerous, and the circumstances are such that the killing would not be murder under Articles 30 or 30.1.

Several issues are clearly presumed such as what constitutes an "average person", "cool reflection", and "sudden passion". There is a presumption that perspectival reflection (reckoning) that leads to the killing of another is somehow more heinous or hateful or shocking than killing out of "blind" rage, devotion to duty, or fear of sanction for not conforming orders. Reason is indicative of individualism the tandem freedom/responsibility. It is presumed that only a reasonable person can be guilty and held personally responsible. Reason is civilization which is not supposed to include murder. By contrast, the same behavior is forgiven in the context of the wilderness of emotions or the surrender of self-consciousness to hierarchical
authority. Here lie many of the contradictions of modernity that are ripe for deconstruction—killing to preserve "the peace", enslavement in the interest of freedom, and passion in defense of reason.

According to Louisiana statutes the question of what counts as a reasonable time for the "cooling of blood" is to be determined by the jury (LSA 1986). The nature and circumstances of the provocation, as well as the length of time intervening are to be taken into account by the jury (LSA 1986: 250). Likewise the "adequacy of provocation" is a jury question (LSA 1986: 250). There is no detailed enumeration of what should be considered adequate provocation because it is dependent upon, "so many and varying circumstances that a stereotyped classification would be impracticable" (LSA 1986: 250). The world of human behavior, unlike that of billiard balls rolling down incline planes and planets, is not consistent. Human behavior yet defies being described by a single equation or set of equations.

6. The Defense Strategy

In the "freeze" case, what is "normal" was at issue. What is a "social contract" was at issue. Also what is provocative enough to call into existence "sudden passion" that could reasonably justify deadly use of force was at issue. Mr. Pearis had many supporters inside and outside of the courtroom who contributed to his defense fund. They said that he had acted "reasonably" and "normally", given the world he lived in. In the perspectival world, reason is presupposed to be synonymous with sanity and "civilization".

Lewis Unglesby was Mr. Pearis’ defense attorney. Unglesby argued that Pearis was an "average homeowner", "one of your neighbors" who acted "reasonably" and legally. Character witnesses stressed that he was a respectable worker, husband, father, one of them, so they cheered when the acquittal was announced. They cheered the victory of their world, their legitimating and justifying "reason".

According to the "law of the land", this American world is one where "You have the absolute legal right...to answer your door with a gun. In your house, if you want to do it, you have the legal right to answer everybody that comes to your door with a gun", Unglesby said (Applebome 1993a: A1). In a "man-in-the-street" interview Karl Lavergne, a construction worker in Baton Rouge who claimed to own several guns said: "I think it was a fair verdict. It's unfortunate it happened, but I feel like in the days and times we live in now, when you see someone come to your door, that's the first thing you think of" (Applebome 1993: A14). Likewise, a parking lot owner, Charles Sutton said, "We're just prisoners in our neighborhoods. It would be to me what a normal person would do under those circumstances" (Applebome 1993: A11; emphasis added).

In what way had Pearis acted rationally? The defense convinced the jury that Hattori's smile and "usual buoyant mood" could reasonably be seen as "menacing". By comparison, Pearis' actions were seen by the jury as "normal" and "rational", while Hattori's were seen as those of an "aggressive" invader whose walk was "scary" (testimony describes him as liking to "dance" and "skip"). Unglesby said that, "Yoshi had an extremely unusual way of moving. It's been described as aggressive. It's been described as kinetic. It's been described as ants'. It's been described as scary" ("Defense Depicts Japanese Boy" 1993: A10). The defense turned Hattori’s perpetual smile into a sinister "grin" saying that he kept "grinning" and coming toward Pearis, "with absolutely no regard for his home, his gun, his fear, his woman" (Booth 1993: A6). The stress on "his" is an important indicator of the perspectival world of hypertrophic egocentrism. Incidentally, the emphasis on "grinning", "scary" walking, and other gestures, seems to fly in the face of Louisiana law which states that, "Mere words or gestures, however offensive or insulting, will not reduce homicide from murder to manslaughter" (LSA 1986: 256).

A larger question is was Yoshihiro Hattori's grin and walk a foreign or even Japanese grin and walk? By never bringing the word "race" or "Japanese" explicitly into the discourse, the referent could be negated. The lawyers, the defendant, and the jury could all claim to not be racists simply because the word was not uttered. Like so much courtroom speech the perlocutionary act took precedence over the constative utterance. While J. L. Austin (1955) distinguishes between the two, Gebser stresses that all speech is not merely referential, but magical. In other words, utterances do not merely describe or report, but make things happen. While the conventional perlocutionary speech act makes a difference, which is the essence of power, by formulaic proclamation such as "I bequeath", "I pronounce you", "I swear", et cetera, the perlocutionary speech act makes a difference in a more devious way, by masquerading as a constative statement.

An example of perlocutionary speech is hinting, such as "It's hot in here", or "I'm kind of tired". In each case, the speech appears as a constative report of fact. But in saying one thing the speaker is actually trying to do something, to persuade the hearer to open the window or go home. This inoculates the speaker by giving them what Barthes (1957/1972: 121) calls an "alibi", a literal mean-
him would be reasonable and justified. Being strange or uncanny (or foreign) is justification for being killed.

However, the testimony and facts of the case, which Peairs’ attorney also used in his defense, established to the satisfaction of the jury that the Peairs’ household, not Hattori, was out-of-control with hysteria. While testifying, Bonnie Peairs said that, “There was no thinking involved” (Applebome 1993: A11). It is likely that, given the law’s ambiguity about malice aforethought, Unglesby counseled his witnesses to stress the irrational “hot bloodedness” and “sudden passion” of the case. Nevertheless, everyone involved in the proceedings seemed to agree that a smiling and enthusiastic Hattori was unknowingly confronting a panic stricken person with a very powerful handgun.

By their own testimony, Mr. and Mrs. Peairs indicated that at the time of the shooting they were in a state Gebser (1949/1985) describes as “magic awareness.” Magic “unconsciousness” is “prerational” and unidimensional. It is unreflective. Magic also emphasizes power. According to Gebser, “There is a word group correlating among others the words ‘make’, ‘mechanism’, ‘machine’, and ‘might’, which all share a common Indo-European root mag(h)-”.

“Magic” appears to be a Greek borrowing of Persian origin. According to Gebser’s cross-cultural and historical research, the magic world exhibits essentially five discernable qualities: (1) the egolness of magic human; (2) her point-like unitary world; (3) her spacelessness and timeless; (4) her merging with nature; (5) her magic reaction to this merging (giving her power and making her a “Maker”) (Gebser 1949/1985: 48).

According to Gebser all magic, “even today”, involves a “sacrifice of consciousness” such as trance and the dissolution of critical reasoning as a result of mass reactions, slogans, and “isms” (1949/1985: 49). Propositional and reflective/critical “thinking” is a trait of perspectival humanity. This is not to say that mythic and magic peoples do not “think”, but that what they do is qualitatively different (and neither process is inferior to modern reasoning “thinking”).

Due to modern perspectival humanity’s arrogance, magical influences are either not acknowledged or are presumed to have been rationalized away. Consequently, magic is misunderstood as “temporary insanity” or irrational sentimentality (“feelings”). When the power of magic is denied one becomes a blind victim of that spaceless and timeless surrender of reflective awareness. It is appropriate to call such a “modern” a “victim” because in such an instance, magic controls without a sense of participation. From the point-of-view...
view of mental rationality, magic is either defined as being non-existent or deemed “insane.” In this sense, “insanity” means not acting in accord with one's own best interest, egocentrically. In the modern world, egocentrism is the basis of perspectival “rationality”. To be “rational” is to be “independent”, “critical”, and to act in accord with one's own interests. Instead, “insane” or “uncanny” behavior is in utter disregard for the causal consequences to the self and its “interests”. As Nietzsche points out, contradictions readily appear within the modern mentality such as when altruism is pursued because it has utility, which is the same as saying that altruism cannot exist at all, for every act the modern pursues is done on the basis of an intuitive cost/benefit analysis (Nietzsche 1982/1974: 94; Homans 1954). By contrast, magic is “emotional”, “sentimental”, and selflessly nonsensical.

Mechanisms of power, such as guns, are magical. “Gun lovers” often exhibit absolute identity with firearms, finding it difficult to express (logically articulate) their strong emotional “merging” with guns. Modern American heroes of television and cinema often share names with firearms like, “Barretta”, “Magnum PI”, “Remington Steel”, “Colt”, “Cannon”, et cetera. Guns, bombs, and military machinery are often “christened” with images and names like “Big Bertha”, “Memphis Belle”, “Fat Boy”, and so forth.

Magical identity between humans and things (as other humans as ideologically identified like “Marxists”, “Christians”, et cetera) has been described by many scholars (Campbell and Moyers 1988; Eliade 1975; Malinowski 1922) as pars pro parte (a part for a part), pars pro toto (the part for the whole), totum pro parte (the whole for the part), and totum pro toto (all for all) (Geertz 1973/1985: 50). Magical awareness is a dream-like spaceless and timeless world, which defies “perspectival” notions of sequential causation and analytical thinking. There is no separation between isolated things. Rather, direct experience of spatial and conceptual distinction/identification characterizes the perspectival world that is presumed by propositional thinking such as “if...then” reasoning. The magical world is overwhelmingly affective. Everyone and everything participates equally and totally in the resonance of emotion (Bataille 1955). “Magical moments” and modes of being are “thick”, “entangled”, “interweaved”, “mergent”, and thus require a non-variable analytic appreciation (Geertz 1973; Ryle 1971). Magic expression cannot be in contradiction. As Albert Schweitzer (1952), Einstein (1950), Kenneath Burke (1966), Husserl (1954/1970) and most critical scholars agree, when perspective technology is mixed with resendent mythic and magic attitudes, a disaster is likely.

In the magical world there is a unity were not yet disconnected “things” act “without thinking”. This spaceless and timeless attitude has been described many times by soldiers, athletes, doctors and nurses, mystics, parents, and others involved in a “magical moment” of “oneness” (powerful identity), which is unusually intense emotionally. The separation or disintegration that is cause and effect is not experienced as such. There is “no time” for sequential reflection. Magical action as being-in-becoming is immediate and ever-present. Neither the past nor the future exist. The magic world is a perpetual now.

By contrast the modern court of law insists on finding “reasons”, and consequently its incessant rationalizations often result in absurd conclusions. Thus, according to the Baton Rouge Court, it seems that to be “normal” and to act “rationally” in the United States is to be “hysterical” and shoot people who come to your door; to manifest what Geber (1949/1985) calls “deficient” magical consciousness. “Deficient” means a mode of being that is no longer “efficient”, “vital” and life sustaining. Any other conclusion by the court would, according to late-modern criteria, identify the behavior as being either insane and/or guilty. In the modern world, morality is defined as being premised upon the ability to make rational choices.

Both sides in the case agreed that Mrs. Pears’ fear precipitated the shooting. In an attempt to build a causal chain the court held that the first cause was ultimately responsible. The prime mover accepted by the jury was Hattori’s simple existence at the front door. Hattori’s exoticism, his difference caused his own death, which was excused because the fact of his strangeness was established. As the strained logic was fabricated, Hattori caused Mrs. Pears to panic, which caused her husband to shoot the boy. It all seems so rational.

About the system of values and preferences, under Louisiana’s 1976 “shoot-the-burglar” law, it is legal to kill an intruder if one “reasonably believes” the intruder is trying to rob the house and might use violence against the occupants. Virtually everywhere in the United States the law allows for lethal use of force if a threatening incident occurs in a person’s home or if one believes that they are being threatened with deadly force including rape, kidnapping, et cetera. It was found that Hattori’s appearance sufficiently signaled “threat” to legitimize deadly use of force. However, according to Daniel Polsby, a law professor at Northwestern University, in 11 states and many jurisdictions, a person does not have the right to use lethal force if he or she is able to escape a threatening situation (Applestone 1993b: A14). Unfortunately for the Hattori family, Louisiana is not one of these places.
7. The Missing Socio-Cultural Context

The perspectival modern courtroom attempts to rationalize what is often irrational or arational behavior. The discursive structure is dialectical and the interest pursued is in the attempt to construct causal chains. During the case concerning the killing of Yoshi Hattori, the modern world-horizon displaced the mythical and magical worlds that were dominant during the actual killing. Consequently, the emotionally intense hermeneutic context within which the act was embedded, was strictly bracketed in the trial of Mr. Peairs.

Perhaps this is appropriate or at least consistent with the modern perspectival legal vision. Consequent to these “ground rules”, the view that emerged as dominant was one that was exclusively focused on the behavior of Mr. Peairs as an individual monad. However, as Barthes (1957/1972) has argued, such naive empiricism is an attempt to isolate from history and ideology the act thus preempting understanding and informed criticism by suggesting that the meaning of the behavior is “natural”. “Natural” is used as a synonym for “normal” and “average”. Naturally, Mr. Peairs would shoot and ask questions later. This form of naturalism, which Barthes calls “psycho-physias”, promotes objectivity and demotes context as sub-

The court did implicitly presume a context, but one that justified the killing. What was presumed was a perspectival individual with interests separate from the larger socio-cultural context. The court preferred to act more like a cyclopedic context is presumed by the modern court of law, to take into account the larger socio-cultural context to which it is not. However, that of the group is not so easy. However, in accord with the Western concept of jurisprudence, the exclusive question before the court was the guilt or innocence of the individual, Mr. Peairs; not the health or “goodness” of the United States gun culture. This emphasis on individual culpability is a hallmark of the modern perspectival consciousness structure. But as mentioned above, even if one assumes a Pavlovian paradigm, the appropriateness of a reaction, even of an individual, requires knowledge of that in which one is reacting namely context.

According to the ground rules of the neo-Enlightenment dialectical court of law, to take into account the larger socio-cultural context would have set new precedent. The court prefers to act more like a dictionary or codification process than an encyclopedia. But the encyclopedic context is presumed by the “peerness” of the jury. According to the perspectival mentality, it would be unjust to try Mr. Peairs for being a United States citizen but only people designated as such may judge him. The trial after all was not supposed to be a policy debate about crime in general or firearm regulation in particular. Aristotle, in his very modern text *On Rhetoric*, clearly demarcates the essential form of discourse appropriate to courts as “forensic” (about past events), and not “deliberative” (about the future). That is why the East Baton Rouge Parish District Attorney Doug Moreau was “careful not to turn the case into an argument for gun control…” (Applebome 1993a: A11).

However, no text can be understood without context. And in fact, the court did implicitly assume a context, but one that justified the killing. What was presumed was a perspectival individual with interests separate from the larger socio-cultural context. The court preferred to act more like a cyclopedic context is presumed by the modern court of law, to take into account the larger socio-cultural context to which it is not. However, that of the group is not so easy. However, in accord with the Western concept of jurisprudence, the exclusive question before the court was the guilt or innocence of the individual, Mr. Peairs; not the health or “goodness” of the United States gun culture. This emphasis on individual culpability is a hallmark of the modern perspectival consciousness structure. But as mentioned above, even if one assumes a Pavlovian paradigm, the appropriateness of a reaction, even of an individual, requires knowledge of that in which one is reacting namely context.

Consequently, the question to be raised in this academic forum is the integral “health” (guilt or innocence if one prefer) of the U.S. socio-cultural context, which need not, indeed must not, be bracketed. “Bracketing” is a perfect example of nonintegral, perspectival thinking, which insists that different aspects of life be fragmented and strictly segregated from each other. This prejudice, which turns a blind eye to systemic interconnections in favor of a discourse of discrete analytics, precludes and impedes integral awareness of interdependencies. To understand the timeless and spaceless hysteria that Mr. Peairs and Mr. Hattori suffered from, one cannot ignore the broader implications. The modern propensity to rationalize away hysteria fails as an adequate understanding.

While it is not disputed that Mr. Peairs was extremely frightened and that he legally possessed a weapon, the kind of attitude (consciousness structure) and corresponding mode of being that results in such intense fear and aggression must be questioned. Is such a world where people are shot for “dissing” (disrespecting) one another, as when one person accidentally bumps into another or scuffs their shoe, a “good” or “healthy” one? The ego-hypertrophy that “dissing” implies clearly indicates a late-modern world in need of critical examination. Such questions remain off-limits for the court but not for the culture critic and social investigator.
The missing horizon can be described in many ways including by means of crime statistics. On October 28, 1994 the United States Department of Justice announced that for the first time in U.S. history (indeed for the first time in any industrialized nation's history) more than one million of its citizens were incarcerated. This is an astounding number by itself, but even more troubling when it is realized that nearly three out of every four convicted criminals are not incarcerated. The U.S. Department of Justice has reported that in 1992, the median prison sentence for murder was about 15 years, while the average time served was actually just a little over 5 years (cited in Seper 1993: A4). Furthermore, it is estimated by the U.S. government that only about two persons out of every 100 crimes committed ever go to jail (federal or nonfederal). This is so because fewer than one in three crimes is reported and of that number police make arrests only about 20 percent of the time. Of those actually arrested nearly half of the cases are dismissed by prosecutors (Colson and Van Ness 1989). Despite this apparent "leniency", the United States, with an incarceration rate of 455 persons per 100,000, imprisons more of its own citizens than any other industrialized country: 10 times more than Japan, Sweden, or the Netherlands, for instance (Kazin 1992).

While such "leniency" is decreed by members of the "truth in sentencing" movement, and is also ballyhooed by politicians jostling with each other to persuade voters that they are all "tough on crime", the larger issue of what is happening to the social fabric of late modern America is either ignored or co-opted as a political weapon by the "new right". An alternative interpretation based on Gebser's (1949/1985) notion of late modern hyper-perspectivism can help expand our thinking beyond unilinear models of behavior. While for instance Charles Murray and Richard Herrnstein (1994) can draw a correlation between black male "achievement" and relatively low IQ scores, the truth that there has never been a "level playing field" is ignored. Minority (relatively powerless and poor) children of all races lack the prenatal, and other sorts of formative care more privileged children receive. Since we all start out as children, and that childhood is typically held up as an example of innocence in this culture, one might think that this society would not allow such a state of affairs to exacerbate. This is however, very wrong and to begin the "us versus them" perspectival discourse misses the fact that we are in this together and share an implicated influence on each other.

Meanwhile, the groups that are most dynamic in their political organization seem to support contradictory positions. If one wishes to lower the incidence of civil violence, of both random and nonrandom types, fostering social policy that punishes the poor for being poor while also resisting any kind of gun control seems to be an illogical combination. Draconian social policies and liberal gun ownership seem to lead directly to an increase in alienation, social disintegration, violent behavior, and more litigation and prisons, all of which cost individuals their sense of community and their feelings of security, only to mention the hefty price tag. Perspectival individualism is manifested in the civil liberty to bare arms against illegitimate authority, which is precisely what many young killers are doing. In a world of extreme individualism, "legitimation" is in the "eye of the beholder".

In 1991, Americans owned 201.8 million firearms including 66.7 million handguns, 72.7 million rifles, and 62.4 million shotguns (Reynolds 1992). In 1999, 1,341,586 crimes were committed using firearms (USDJ FBI 1999). The number of guns added each year is accelerating. The number of handguns, the preferred firearm of criminals, has exceeded the number of new shotguns and rifles (BJS 1995: 2). More than one half of the guns added to the estimated 223 million in the U.S. were handguns (BJS 1995: 2). Over 40 million handguns have been produced in the United States since 1973 and the most popular kind, the .357 Magnum accounts for 6.6 million of that total (BJS 1995: 3). The number of large caliber pistols produced annually increased substantially after 1986 (BJS 1995: 3). Until the mid-1980's most pistols produced in the United States were .22 and .25 caliber guns but since then the production of .380 and 9 millimeter pistols increased significantly making them the most frequently produced pistols since the mid-1980's (BJS 1995: 3). Surveys of inmates show that they prefer larger caliber guns (BJS 1995: 3). There is a clear trend toward more powerful handguns, a trend that mirrors other trends in U.S.A. culture such as the skyrocketing popularity of dog breeds known for their fighting prowess such as Rottweilers, Pit Bull Terriers, and Doberman Pinschers, the abandonment of board games for violent "first person" mostly one-person video games, and the immense popularity of televised professional wrestling and vociferous attack talk radio. From an epidemic of road rage to popular music lyrics, from mean spirited comedy to games and even pets, U.S. culture has become more aggressive.

Over 4 million new firearms are sold in the United States every year (Applebome 1993: A14). Of all firearm-related crime reported to a Bureau of Justice survey, 86 percent involved handguns. From 1987 to 1992 over 80,000 Americans on annual average, used a firearm to defend themselves (BJS 1994). "In most cases victims
who used firearms to defend themselves or their property were confronted by offenders who were either unarmed or armed with weapons other than firearms” (BJS 1994). According to the Crime Index put out by the Uniform Crime Reporting Program which compiles data submitted by over 17,000 city, county, and state law enforcement agencies nationwide, during 1999, violent crime continued a six year decline but still there were 4,266.8 violent crimes per 100,000 U.S. inhabitants (FBI 2000). This was the lowest rate since 1973. The lowest decline among the four regions of the United States occurred in the South which led the entire country in both violent and property crimes. Although murder rates have declined according to the FBI Uniform Crime Report for 1999, there were 16,910 murders for a national population of a little over 270 million (FBI 2000).

More within the context of the Hattori “freeze case,” between 1960 and 1980 the U.S. population increased about 26 percent while the homicide rate due to gunshot wounds rose 160 percent (Koop and Lundburg 1992). In 1991, 66.3 percent of all murders were firearm-related, with 53.1 percent involving handguns (USDI, BJS 1993). In the United States, with a population about twice that of Japan, about 24,000 were killed by firearms in 1991 (“Man Acquitted” 1993: 392). This is an annual rate of death by gunshot wounding greater than the rate experienced by the United States armed forces during any year of the Viet Nam conflict. While approximately 24,000 people in the United States die of gunshot wounds annually, seven times that many are nonfatally injured (USDI, FBI 1993b). That means that 168,000 are wounded with 24,000 mortally so, making for a grand total of about 193,000 shot in every 12 month period. This makes the United States the most violent country in the industrialized world with a homicide rate more than five times that of Europe, and four times that of Canada, Australia, or New Zealand (USDI, BJS 1988). Firearms kill 65 Americans every day (Applebome 1993: A14). Given this context, the “freeze case” becomes a mere example. But given the Japanese frame of reference, which the Japanese Press and Yoshi Hattori’s parents provided, it becomes an outrage.

For a contrast it is instructive to look at similar statistics for Japan. In the entire year of 1991 there were 74 people killed in Japan by gunshot (“Man Acquitted” 1993: 391). Sixty-seven of these had ties with organized crime. In Japan ownership of almost any weapon is illegal. This includes guns, swords, and daggers. The very few who are permitted to own guns must store them at nearby police stations. Even mobsters rarely use guns, usually battling with fists and kitchen knives instead.

In response to various pro-gun interest groups in the United States, it must be remembered that unlike car accidents, death by gunshot wounding is usually intentional. Furthermore, if gun ownership is the best way to facilitate a secure civil society then the United States should be extremely peaceful but as the number of guns in the society has increased so too have the numbers of victims. Perhaps the relative outrage expressed over the “freeze case,” by the Japanese exposes a comparatively desensitized U.S. population.

8. False “Postmodernity”: Late Modern Violence

The United States of America is at random, late modern war with itself. The conflict has no “sides”. Examples of deadly violence often seem senseless, alogical. Yet, what is occurring is the fragmentation of community into an anonymous “them” against “me”.

“Siege” may be the best predicate for the mentality expressed in the Hattori killing. “Siege” describes the widespread anxiety felt by U.S.A. citizens who are uncertain about their personal security. This anxiety is manifested in the sharp rise in sales of various “alarms” for homes, boats, cars, and even to be carried on one’s person, and by the sharp increase in self-defense classes including handgun instruction. Parameters that demarcate the inside (us) and outside (them) are being more strictly monitored and enforced. This involves “boundary maintenance conditions” that are both physical and psychological (Kramer 2000c). Even the rise in cellular telephone use is in part attributable to a sensation that one can use the device to call for help.

In this late-modern milieu characterized by what Gebser called “ego-hypertrophy”, where one can be shot for the slightest and, even unintentional, offense, confronting a stranger is increasingly predicated by uncertainty and unpredictability. In such an environment, individuals often act out their anxieties by attacking the person who is the source of uncertainty. Thus the category “enemy” can inflate to nondistinction, a postmodern condition of acategorical (a “category” without criteria) fear. A category that contains everyone is not a category. The postmodern condition which is a failure of modernity to achieve total dominion over contingencies (reality) was perhaps best stated by President Franklin Roosevelt when he claimed that we have nothing to fear but fear itself. The late modern discourse is obsessed with mathematical modeling, prediction, identity (sameness), and time because reality defies permanent definition. Gebser described the hypertrophic modern thus (1949/1985: 23):
A person who is anxious, or who is fleeing from something, or who is lost either with respect to his own ego or with respect to the world—holds equally true in both instances—is a person who will always be intolerant, as he feels threatened in his vital interests. He "sees" only a vanishing point lost in the misty distance (the vanishing point of linear perspective of which Leonardo once wrote), and he feels obliged to defend his point fanatically lest he lose his world entirely.

Hattori's death is hardly the first "questionable shooting" in the United States. Such killings are often listed on police reports as "lacking motive" or humanistic "cause" (see Kenneth Burke for an often forgotten distinction, 1966). When two Asian-American civil rights groups (The National Asian Pacific American Legal Consortium and the Japanese American Citizens League) pressed the United States Justice Department to investigate whether federal civil rights law had been violated, their attempts to reduce this crisis to racism proved inadequate. In fact, foreign victims of America's random violence receive far more attention from the media and law enforcement officials than United States citizens. The thousands of victims shot annually in the United States include both domestic and foreign persons as well as people of all ages, races and ethnic backgrounds.

However, though it is widespread, this crisis is not entirely random. Some predictions can be made on the basis of rural versus urban context, along racial parameters (the murder rate among African-Americans is much higher than among whites for instance) and economic parameters. Gebser's argument that occasionally societies exhibit devolving trends or "deficient" modes of fragmentation, such as the Nazi period in modern German culture, may help explain what is happening to many U.S. communities that are solidifying into brittle mosaics.

For instance, fragmentation of the extended family into the nuclear and even single or no parent "family" continues (Ikeda 1992). During the 1980's for the first time in U.S. history, a majority of poor families were one-parent families (USDC, BC 1993a). Single-parent families are six times more likely to be in poverty than two-partner families with children (USDCBC 1993a). About 90 percent of single parent homes are without a father (USDC, BC 1992a). Meanwhile, 30 percent of all child support payments due go uncollected (USDC, BC 1993a). Furthermore, the trend in births "out of wedlock" is a serious social problem. The number of "illegitimate" births, meaning for the political right "out of wedlock", and for the political left, a birth lacking strong economic and emotional commitment usually from the biological father (90 percent of the time), has increased dramatically.

Such births among whites rose from 2 percent in 1960, to 22 percent in 1991. Among the African American population the change is more profound increasing from 23 percent in 1960, to 68 percent in 1991 (USDHHS 1993). In 1991, 10 major U.S. cities experienced a single parent birth rate of over 50 percent (USDHHS, 1993). According to a 1993 publication of the United States Department of Health and Human Services in 1960, 5 percent of all births in the United States were out of wedlock. By 1991 the number of "illegitimate" births had risen to 30 percent (USDHHS 1993). According to the United States Bureau of the Census, the number of children in poverty increased 40 percent from 1970 to 1992 (USDC, BC 1993b). This is strongly correlated with the fact that single-parent families earn dramatically less than two-parent families.

The point is not one of "legitimacy" but of income and as any economist or social scientist (regardless of political persuasion) knows, capital is power and power is the might to make a difference. The median family income in 1991 for a two-parent household was $40,137 while for a divorced mother it was $16,156 and for a never married mother it was $8,758 (USDC, BC 1992).

One out of every five children in the United States lives in poverty and of all age groups children are the most likely to live in poverty (USDC, BC 1993a). More than half of all marriages end in divorce with over 1 million children having parents involved in separation or divorce annually (USDHHS 1991).

Some of the consequences of this world should not be surprising. While violent crime overall has declined, the fastest growing segment of the criminal population in the U.S. consists of children 10 to 17 years of age (US DJ, OAG 1992). Since 1965, the arrest rate for juvenile violent crime has tripled (USDJ, FBI 1993a). Between 1982 and 1991, arrests of juveniles for murder increased 92 percent and for aggravated assault 72 percent, and for motor vehicle theft 97 percent (USDJ, BJS 1993). About 20 percent of high school students regularly carry a firearm, razor, knife, club, or other dangerous weapon, according to the U.S. Department of Education (cited in Jordan 1993). In the past poverty was linked with unemployment and low wages but today it derives increasingly from family structure (Bennett 1992).

The relationship between inadequate parenting, poverty, and anti-social behavior, including violent crime, is not a simple causal rela-
The disintegration of the late perspectival world has given birth to two phenomena (among others), alienation and social sciences as rear guard responses to it. This late modern demarcation is manifest-ed with deadly intolerance and rigidity. Like proponents of systems theory who claim to have discovered the universal condition of human being, Skinnerian behaviorism and Pavlovian conditioning do not so much describe a natural state of Newtonian action/reactor (human bodies in motion) but describe modern institutions previ-ously structured by distinctly perspectival forces such as entre-preneurs and government leaders. Their often self-imposed igno-rance of history (in the interest of objectivity!) leads neo-positivists to triumphantly “discover” their own milieu and then elevate their statements to nomothetic status. Intolerant determinism is self-evident. Examples of false universalisms include Sigmund Freud’s psychoanalytic claims and Martin Heidegger’s philosophy of das Man. For instance, Freud’s universal science of the psyche was disrupted by discoveries made by the anthropologists Bronislaw Malinowski (1927) and Margaret Mead (1930) who announced that neither of them could find any evidence of the Oedipus complex in Micronesia.

In late modernity the crisis is over “relativism”, which is trace-able to the emerging fourth dimension time. Time is expressed as the central problem in Twentieth Century philosophy, physics, history, art, management, literature, communications, computations, transportation, generational “gaps”, and all spheres of life. This modern problematic has called into being the disciplines to answer it.

Two of the dominant paradigms fashionable today manifest, rather than explain this deficient state of the perspectivalworld. De-construction and positivistic structuralism are equally obsessed with an oppositional attitude toward permanence (synchronics) and flux (diachronics). Each doctrine is nihilistic in that each one leads to relativism or a total lack of qualification, differentiation: responsibility. The modus operandi of the late modern post-community is “every person for him or herself”. Positivism is the overt denial of the abil-ity to speak of meaning and values rationally so that all values and preferences are equally rational (or irrational). As positivism has be-come the dominant source of knowledge this institutionalizedirra-tionalism has been legitimated and embraced by all levels of society seeking authorization for hedonistic, cynical, and instrumental ego-ism (Adorno 1967; Habermas 1981; Husserl 1970; Sloterdijk 1987).

Where no standards or value exist responsibility cannot be as-signed. No behavior or interpretation is more appropriate or correct than any other. If there is no structure there can be no freedom. The United States is now grappling with an emergent nihilism, which is expressed as a mass discourse of victimage and its attendant search for salvation (i.e., the “Million Man March” in Washington D.C. in October 1995). Given the dominant modern materialistic metaphysic
that posits a “great chain of causation”, everyone is a victim by definition, because there is always a prior cause to defer to for responsibility. This is a rehash of Heraclitus’ panta rhei (“all things are in flux”). The political, historical, ethical, and pragmatic dilemmas presented by Derrida’s (1967/1976) theory of endless traces extended Husserl’s (1928/1964) time research into a maelstrom of incomprehensible flux. Gebser recognized this emergent tendency as a condition whereby time becomes dominating (for many even sinister) rather than integrating. Likewise, the failure of synchronic (methodological) structuralism demonstrated the impossibility to ignore or domesticate the universality of the diachronic dimension. Gebser (1949/1985) noted, that the struggle between interests in permanence enhancing synchronic method and dynamism, amounted to a typical perspectival duel, and he framed the overall obsession with time before several of the leading characters took up their respective positions (including Levi-Strauss, Jacobson, Althusser, and so forth on one hand and Dilthey, Heidegger, Gadamer, Foucault, Derrida, et al. on the other). This struggle reveals the major symptom of the late modern age as defined by Gebser (1985: 22):

As we approach the decline of the perspectival age, it is our anxiety about time that stands out as the dominant characteristic alongside our ever more absurd obsession with space....

Our time anxiety shows up in our haptification of time (already heralded by Pope Sabinus’ hourly bell-ringing) and is expressed in our attempt to arrest time and hold onto it through its materialization.

The modern obsession with space has become an, “intoxication with time” (Gebser 1949/1985: 311). Picasso and Duchamps painted time, Edison created motion pictures, television delivers motion in “real time”, practically all modern writers including James Joyce and Vladimir Nabakov manipulate narrative sequence, virtually all modern philosophers make it a central problem, Twentieth Century physics has been preoccupied with relativity and the debate about the ontic status of a hypothetical continuum of space and time (“warping”), and “ordinary people” vainly and hence “tragically” attempt to “kill”, “make”, “save”, “fill”, and “gain” it. The “mirror of our time anxiety”, (Gebser 1949/1985: 311) is an obsession with “progress” and “accelerating”, life, production, knowledge, sales, war; everything, even play has been distorted into modern sports with its stress on record keeping and statistical discourse.

The more modern humanity attempts to fixate or “arrest” (criminal) time by spatializing it into units of quantification that can be “measured” and controlled (prediction), the more wild time becomes the source of anxiety. Gebser described the decline of late-modernity thus (Gebser 1985: 310):

This superannuated spatial world will break apart just as everything that becomes lifeless and rigidified breaks apart. The process of disintegration of which we are contemporary witnesses will take on various forms, deformities which will engulf the entire earth and mankind with unprecedented degrees of terror before the turn of the next century.

Today there is a crisis of responsibility. Everyone is an effect of prior causes. By way of the great and endless chain of causation, responsibility is always indeterminately deferred. By the logic of causation, in the final analysis everything is the prime mover’s “fault”. This is why the United States is fertile ground for both spatializing reductionism and post-Husserlian temporal anxiety. Given the scope of the crisis it seems that alternative approaches to understanding the situation are needed.

However, the social sciences that the perspectival age has spawned, with their metaphysical prejudice favoring various reductions (hierarchical orders) such as materialism, behaviorism, essentialism, lingualism, psychologism, historicism, et cetera, are characterized by the same essential flaw. That flaw is a denial of the subject, including flux and interpretation (meaning). Hence, “disciplines” like sociology, criminology, and management, compound (they are additional acceptations), rather than address the problem. They are not adequate to the task of understanding their own hermeneutic situatedness in discursive “space”. Indeed, many social scientists defensively refuse to admit the existence of any methodological limitations, other than practical ones like the cost of data collection, and therefore cannot even begin to search for alternative orientations. Epistemology is a closed case.

Thus social science, which takes as its focus the issue of self to other relationships, including other people, wealth, nature (industrialization), and oneself generally, increasingly denies the existence of its central subject-matter, values and humanity, and therefore its very reason for being (Husserl 1954/1970). Its obsession to represent structures and systems also exposes its naive sense of time and the desperate attempt to freeze it into spatialized categories, scales, typologies, and models that are supposed to render truth. Max Weber’s (1903-1915/1949) notion of the “ideal type” and Saussure’s synchronic linguistics are excellent examples.

These are all expressions of, or constitutive properties of, the in-
creasingly deficient modern perspectival world (Gebser 1949/1985). The old dictum, “physician heal thyself”, when applied to the problem of time demonstrates that the physician is fundamentally unable to do so. The crisis is precisely that, a crisis, because the doctor cannot transplant her own heart.

10. An Alternative Approach

The best way out of this duality of permanence and flux manifested as unidirectional false causalities is to think integrally—to become postmodern (“aperspectival”) (Gebser 1949/1985). Aperspectivity is a process of systasis and synairesis, which retain the efficient validity of symbiosis, symbol, and “open” system without presupposing spatialization. A perspectival awareness is non-spatial and therefore acategorical. It abandons the philosophemes that formed the discourse for perspectival truth in favor of the new eteologemes wherein the eteon, or being-in-truth comes to veracity as statement (discourse). Eteologemes, or statements of truth, “wares”, or guard verity conveying the “verition” which arises from the a-waring and imparting of truth. No model or representation can yield truth. Rather, the world must be perceived as pure statement verition. According to Gebser (1985: 309):

Every eteologeme is a “verition”, and as such is valid only when it allows origin to become transparent in the present. To do this it must be formulated in such a way as to be free of ego, and this means not just free of subject but also free of object; only then does it sustain the verity of the whole.

Eteology is not simply another ontology or theory of being ala the late-modern (neither postmodern nor aperspectival) neo-Heideggerians. Neither is it another metaphysics. The dualistic question of being versus non-being, which is penultimately perspectival, is integrated (not surpassed) by eteology. Eteological statements (eteologemes) are possible only through a systatic awareness. Systasis appreciates the efficacy of all acategoricalelements, all aspects of time. This is important because since time is non-spatial it cannot be an object of categorical systematization. Time is not a given or data but “...in a certain sense ‘givings’ or impartations” (Gebser 1949/1985: 310). According to Gebser’s approach:

Systasis is the conjoining or fitting together of parts into integrality. Its acategoricalelement is the integratingdimension

by which the three-dimensional spatial world, which is always a world of parts, is integrated into a whole in such a way that it can be stated (1949/1985: 310).

Systasis is not an ordering schema like system. According to systems theory it is important to ask where a part “belongs”, which presumes a sort of transcending reason or functional plan. Systasis is not a spatial thing. It is not integral but integrating so that it is both process and effect. Systasis has an effective temporal quality. Gebser claims,

Synairesis fulfills the aperspectival, integrative perception of systasis and system. This synaeretic perception is a precondition for diaphaneity, which is able to be realized when, in addition to systasis and system, the symbol—with its mythical effectiveness—and magic symbiosis are included, that is to say, present (1949/1985: 310).

For Gebser, synairesis is the ability to perceive the effectivity of all the modes of consciousness simultaneously. The integration of magic symbiosis, mythic symbolism, and perspectival structuralism yields a perception of the whole of human consciousness simultaneously. It is the ability to see the origin as “ever present”. In more specifically communicative terms, Kramer (1997) calls these modalities the magic idolic, mythic symbolic, and perspectival signalic. In his theory of dimensional accrual/dissociation, Kramer (1997) combines Gebser’s scheme with Mumford’s (1934/1962) notion of dissociation in order to better explain the emotional valence of these modes of communication. The “primitive” past is not absent. Nothing is present, but everything is presentiating.

In the Hattori case the modern perspectival court could see only causal linearity, and the spatial (physical) behavior of the accused. For this reason such a discursive prejudice could not yield to an understanding of what transpired on that terrible Halloween night in Baton Rouge. Because perspectival experience does not recognize the continued effectuality of mythic and magical modes of awaring it absurdly defines hysteria as “reasonable cause”. What is necessary for a more adequate understanding of the Hattori case specifically, and the gun culture generally, is a nonreductionistic acknowledgement of the continued effectuality of all “past” modes of being and communicating.

The current world is dependent on the ever-present “past” structures which are not past but are blindly presupposed and relied upon for the viability of the present variant, which need not be “su-
period”, “more advanced”, or in any other way “positive”—not even more present because the awaring of any structure is presentiat-ed as potential and as such viable. Gebser outruns any critique that might identify him as a linear progressivist, because he challenges the arrogant claim that the past can be totally abandoned. That would amount to stepping out of one’s historically effective hermeneutic horizon [das Wirkungsgeschichtliche Bewusstein] (Gadamer 1975). Because history is not time, and even though history is not unidirec-tional but indeterminate and explosively mutational, the “new” is a variant of the “old”. In fact, our sense of the “old” is effected by the “old” and the “new” just as our sense of history is effected by history.

In other words, just as history writing itself has a history, so too consciousness has a reflective awareness that is liberating. Once perspective is recognized as such, freedom (not absolute) from it becomes thinkable. For this reason, Gebser does not accept the arrogance of Darwinian mutational change. While change is often incommensurate it does not surpass the past. On the contrary the “new” presumes the “old” presentiating it through integration. Hence the title of his magnum opus Ursprung und Gegenwart [The Ever-Present Origin].

Applying Husserl’s (1913/1982) suspension of metaphysical prejudice, Gebser suggested that a mutational pattern of consciousness can be discerned. Decades before either Thomas Kuhn or Michel Foucault articulated their respective neo-Husserlian “archae-ologies” (what Nietzsche called “genealogy”), Gebser argued that different historical periods (not stages) tend to be dominated by one or another consciousness structure (reality/truth), and that the idea of perspectival linear “progress” (which presumes some fixed and final goal) must be abandoned in favor of an indeterminate model of ahistoricity. Although the current perspectival period (modernity), which is characterized by individualism and an extreme valuation of rationality, seems to many to be an “advancement” over “previous” mythical and magical worlds, these “earlier” attitudes are yet operative and constitutive of the current reality.

The idea of “advancement” itself could only be thought by the perspectival mentality with its spatial emphasis including linearity. The myopia of a self-imposed ignorance, as in the modern court of law, is the consequence of separating out and ignoring the magical and mythical aspects of the event. Such modes of being, perceiving and acting are not lost to the dustbin of evolutionary “progress”. Rather they are integrally effectived today generally in this, and many other killings (including war) that defy strictly rational explanation.

What happened to Yoshi Hattori can be understood only when integrally perceived as part of a larger process that is far less rational and systematic, than symbiotic and symbolic.

11. Systatic Presentation of the Problem

In late modernity, killing is not a crime. The crime is to get caught. Since guilt is not a behavior, then getting caught is the only real consequence. The victim too has become isolated. In the highly deficient, or exhausted, milieu of late modern North American society, self-identity is facing a crisis. In so far as the preperspectival qualities of community are denied, the independent ego must carry all of the burdens of existence and thus not surprisingly the lone individual often collapses (has a “break down” and “cracks up”). It is for this reason that the status of the Other is also in jeopardy. Niet-zsche’s attack on nihilistic reductionism, Husserl’s attack on the “crisis” of the hyper-valuation of careless disinterest, Weber’s attack on mindless system (doing without thinking—automation or artificial intelligence), Levinas’ attack on the transcendental violence of objectifying the Other; the very existence of these and many more critiques indicate a problem with advancing dissociation/abstraction. Similarly the modern stress on utility and pragmatism indicate a need to be engaged and to “do something real”. The pathetic irony of utilitarianisms that it ends up legitimizing increased dissociative alienation through massified exploitation. The endless conveyorbelt of progress and the scale of making, indicates a fear of not being a part of life and history, of not making a difference, of being that greatest of all abstractions, the surface life that leaves no traces. Within each megalomaniacal striving there is an urgency fed by fear of not being “somebody”. The late-modern world is a world lacking in self-effacing heroic dedication while being awash in the images of celebrity.

Likewise, the crisis of the self is expressed by the emergence of urban tribal gangs of youths desperately trying to generate group identities, both in terms of self-identity (and self-survival) as a “member”, and “we” identity through rituals, oath taking, pledges of allegiance, and collective behavior. But a collection of hyper-trophic egos is also a false solution to deficient perspectivism. It amounts to a surrender of the self rather than an integration. Such efforts mark the late-modern world in the form of mass movements from the Nazi Brown Shirts to the Communist Red Guard. The pre-dominance of mythical consciousness is self-evident in the form of symbolic “colors”, hair and clothing styles, hand signs, mural turf
markers, and other tribal phenomenon that are also evident in the military world generally.

This is what Gebser (1949/1985: 153,154) calls a dangerously deficient effort to seek asylum in magic or mythic consciousness. Here, we have the stark duality of the mass worshiping the cult of personality, of one who promises to return to traditional glories of the ancestral “father” or “mother” land-era (for instance, Churchill, Hitler, Mussolini, Stalin, all appealed to collective “destiny” and used traditional magic idols and mythological symbols to rally the troops). The incantatory evocation of mythic times and places such as “Camelot” can infuse an audience with a sense of magical identity.

A more pedestrian example, which also indicates the idol and mythological place guns have in the American psyche, is Marion Morrison from Iowa, whose birthplace was commemorated by President Ronald Reagan in 1984. An anthropologist once crisscrossed the United States and noted that portraits of Morrison in costume and screen persona (“The Duke”, “John Wayne”) were the most frequently displayed icons in homes and businesses, even outnumbering Jesus, George Washington, Abraham Lincoln, and Elvis Presley. The “Duke’s” image almost always included the mythological symbols of a “cowboy” hat and often his iconic and mythic colt single-action “six-shooter”. Though he played “cowboys and Indians” and “war” in front of cameras, arms manufacturers continue to issue real commemorative guns in his honor. A special display paying homage to his image exists at the Cowboy Hall of Fame in Oklahoma City. A website dedicated to his birthplace boldly announces that the “mere mention of his name produces images of courage and patriotism”. Following the release of The Green Berets (1968), a movie, which he directed, starred in, and helped produce during the Viet Nam War (a war he strongly and publicly supported), recruiting in the American armed forces increased. All of this despite the fact that he was never a member of any military service let alone ever having been in actual combat.

Gebser argues that one cannot “go back to”, or selectively deny the perspectival and its stress on powerful technologies, and thereby live a restricted world of myth and/or magic without running the risk of having modern technologies in the hands of mythic and magically inclined people. These modalities of experience were once dominant but to exclusively embrace them again is impossible because one cannot exclude the perspectival aspect of the world. Just as the perspectival fails to “absent” the magical and mythical dimensions of life (indeed it presumes them), these dimensions also cannot “absent” reason (Kramer, 1997). Nor is this desirable because reason, when not hypertrophically overvaluated is just as vital for life as symbolic polarity and magical unity. Integral modality (synairesis) does not exclude but recognizes the effectivity of all modes simultaneously, including the perspectival. By comparison, much post-structural and postmodern work is merely hypermodernity because it presupposes dualistic oppositional thinking and often expresses an intolerant anti-modern perspective (Kramer 1997).

Gebser argues that Nazism is an excellent example of a “tragic” attempt to “turn back” and embrace mythic and magic worlds, to directly experience the world as a place of mystical forces and mythological destinies. Such efforts indicate a semantically impoverished world seeking inspiration, a deficient mythological “purpose”, a deficient logical “cause”. Here too is a felt sense of having lost some identity that needs to be recaptured, an increasingly problematic condition in the face of growing globalism (Kramer 2000b).

Like poor urban gang members, upper class suburbanites in this late-modern world have their maladies such as psychological eating disorders, endless competitive consumption, devotion to various forms of mysticism, dedication to cultish behavior, and other deficiencies. For instance, the Betty Ford Rehabilitation Clinic in idyllic Palm Springs, California and others like it, are the ultimate in Bourgeois sado-masochistic individualism (self-inflicted suffering and treatment).13

The current state of ego-hypertrophy has reached the point where society is ripe for political dramatistics such as pageantry and demagoguery. This atmosphere saturated as it is with idol and mythic imagery, has been called the “Third Sophistic” by Kramer (1992a). Talk radio’s ego hypertextivity is enabled by a re-emergent irrationalism (the cult of personality). The politics of personal destruction made famous by the tactics of Ronald Reagan’s campaign manager, Lee Atwater came to full blossom with the impeachment of President William F. Clinton in 1999. What is true is what gets ratings. When asked to comment about the movie The Green Berets, Wayne responded, “The left-wingers are shredding my flesh, but like Liberace, we’re bawling all the way to the bank”. These are the same sentiments of Vincent McMahon, founder of the World Wrestling Federation Entertainment Corporation which produces the most popular regularly scheduled weekly cable television program “Raw is War”, and “Smackdown!”. Raw is War is the number one rated regularly scheduled weekly cable program in the United States. In 2001, Smackdown! is the UPN network’s number one show leading broadcast ratings with male teenagers. On the WWFE Webpage they boast of creating 1.8 billion “TV impressions” per
week with their top rated programs that show in 120 countries. On March 9, 2001, in Florida, a 14-year-old boy, Lionel Tate, was given a mandatory sentence of life in prison without a chance of parole for the beating death of Tiffany Eunick, a 6-year-old girl. He claimed that he was practicing wrestling moves on her that he had learned from watching WWF programming. Though the relationship between watching such content and overt behavior may remain somewhat indeterminate, the coroner’s report demonstrated that Eunick’s 30 some injuries were consistent with the “moves” Tate demonstrated in detail to the court. The moral responsibility may lie at least in part with those who taught him the moves, even if one cannot say that they caused him to use them, especially given his age.

Cynicism is deficient reasoning. According to Gebser, the current “crisis” signals the transition to an aperspectival world. While tracing previous consciousness mutations, Gebser noted that whenever a dominant world-structure begins to wane the societies involved experience crises across civilizationalexpressions (revolutions in politics, religion, art, economics, philosophy, ethics, etc. cetera). A good example is the European Renaissance where legitimate power changed structure and even the psychology of the people changed such that psychology itself became problematized/recognized as such (a shift in concern from soul to mind; from heart to brain).

The crisis of the Other is manifested by extreme alienation such that the Other subject has become a devalued and dis-qualified object (Buber 1923/1970). Late modernity is manifested in homicides of two kinds. One is a pathetic quest for stimulation (meaning) as for instance when one gang member establishes self-identity through the killing of an Other. There is still a “cause” (or at least excitement), no matter how repugnant, to die for. The other kind of late modern murder is even more deficient and it is characterized by senseless rather than sense-making killing.

The first type of sense-making killing has been the source of history and glorified from Homer to the “Gulf War” as the most meaning-giving behavior humans engage in. This form of killing is based on having a meaning (later a cause) worthy of death itself. Motives and behaviors interpreted as “causes” and “sacrifices” are meaningful; even heroic, and are as such sacred. The sense of behavior varies from one cosmological system to another. What is a heroic sacrifice to one is a crime to another. By stark contrast, drive-by death is senseless, neither sacred nor profane. The latter has neither rhyme nor reason (no value). It is not motivated by ambition, revenge, or any other valuing interest so defined by a system of values or cosmological orientation.

Because of their utter lack of sensical motive, or other sign of reason, increasingly younger killers are totally confounding the penultimately modern penal system. The children of the wasteland embrace suicidal popular music lyrics, graphic displays of sadism on the Internet, and violence for stimulation. There is no reason or remorse and not unexpectedly, little is shown except for being caught. Most emotion is selfishly expressed during announcements of acquittal. Increasingly, criminologists, judges, social workers, parole officers, juries, and others cannot “get it” because there is nothing to get. Politicians exploit the “crime issue” with great effect because it is what this society wants to hear. Poverty as a classic causal explanation fails for history teaches that U.S. citizens are currently enduring one of the highest material standards of living in history. Furthermore, during previous economic depressions the poor rarely acted violently against others (even their identifiable oppressors). The deprivation that is “out there” is not material and therefore cannot even be addressed by the dominant behavioral approach to life. The crisis is one of values and quality.

Phenomena like “wilding”, “car-jackings”, “drive-by shootings”, guns and knives in elementary schools, random killings herald the late modern deconstruction of right and wrong, good and bad. The result is chaotic amorality. Even drug consumption fails as a causal explanation.

Absurdly, it is no longer politically correct to privilege one preference over any others except of course this radical relativism itself. To be “politically correct” is to be “positive” meaning to make no value judgments. To be “correct” is to have no criteria of correctness. Post-positivism, with its avowed value-freedom, has come home to roost in everyday life (Sloterdijik 1983/1987). One consequence is that there can be no injustice; there can be no murder, only “killings”. “Killing” designates a behavior, a mere motion in space without motive or intent, while “murder” designates a world with a moral dimension.

12. Conclusion

Modern rational social engineering as envisioned by the founders of social science, has utterly failed to solve the problems resulting from the “death of god”. In fact over-rationalization has hastened “its” death (Nietzsche 1895/1954). On October 26, 1994, the United States Justice Department announced that for the first time in the history of the United States of America, the number of citizens in-
and privatizing individualism. In neither case is the world of social interaction experienced as monadology/egology as Gebser and the world have demonstrated, nihilism. Though momentarily (materially) efficient and economically profitable (see Ellul’s work on the “cult of efficiency” in 1954/1964) reason has proven to be a poor substitute for common sense and (comp)assion (Gadamer 1975).

This is the age of noncommunities. Likewise, in the spirit of dissection, bits of information have displaced meaning. Narrative is “deconstructed”, fragmented beyond sense. As Gebser (1949/1985) argued this is not a world where it can be assumed that vital individuals will cooperate toward a shared eschatological or teleologica purpose, but rather it is an age of aggregated monads that do not share a common world-goal but mostly common anxieties and fears. Our prurient interest is manifested by a world in which each is a disinterested “objective” observer (audience member) of the calamities of others. We consume tragedy as a “past time”. Marshall McLuhan’s (1962) vision of “retribalization”, like Joseph Campbell’s (Campbell and Moyers 1988) call for a “global myth”, is not yet apparent, nor perhaps desirable (See “Playboy Interview: Marshall McLuhan” 1969). The dominant perspectival attitude (monadology/egology) as Gebser and the world have demonstrated, has been most starkly expressed by modern centralized collectivism and privatizing individualism. In neither case is the world of social interaction experienced as “ours” or as “our” responsibility. Solutions are expected to be the burden of either the anonymous state or an equally anonymous someone else. Ownership and obligation ends at the material boundary of property and personal perspective.

Both modes of being are late perspectival formations. Each “solution” to the “wasteland” manifests the dualistic tendency of the perspectival mentality, which sees the world dialectically as binary extremes along lines of variance. More recently, in the wake of deconstruction, goals, with their linear-rational connotations, have come to be seen as bad (patriarchal) “things”. The absurdity here is that deconstruction denies any privileged comparison between “good” and “bad” as itself a “bad” thing to do. As the hyle, or material substance expanded to encompass all things including human bodies in motion (behaviorism) all qualitatively differences were devalued to the level of secondary qualities (Locke 1690/1975). In a world materially reduced in the interest of technological manipulation all things are equal because quality has been rejected on the grounds of metaphysics (power-interests). Since all things including people are merely nondistinct piles of atoms in motion and only the quantity of stuff matters (having no inherent quality so there is no difference/identity) people become available for indiscriminate instrumental use (positivistic objectification). This means that people are valued only in so far as they can be used for measurable ends regardless of the means applied.

Furthermore, the judgments concerning which ends to pursue cannot be rationally evaluated. By promoting value-freedom and the idea that it is epistemologically illegitimate to evendebate the appropriateness or value of ends and means, the positivistic ideology becomes self-legitimating under the guise of “naturalism”. Every end is as good as every other. Which end is pursued is determined only by which interest has the most power.

Hence, in cases of “wilding” a woman, any woman is merely a toy to be used for momentary gratification and then discarded because she is dead. Any passerby in a riot is fair game for abuse. Drive-by shootings are target practice and a means to enhance one’s image as “bad” which is “good”. Recent requirements by courts to make the “criminal” face the survivors of the victim are an attempt to reestablish the qualitative implications the victim had for authentic Others such as the family members of the deceased. But increasingly the murderer cannot empathize with the presentation of “family ties”, and the victim has no family to present. When the murderer is forced to “explain” his or her actions to the parents (for instance) of a victim (if they exist), the assumption is that this will demonstrate to the criminal that they have killed a human being with all the traditional (meaning modern) implications, not a deconstructed nothing. But increasingly violent crimes are not “personal”. Increasingly the victims do not know their attackers. As in the beatings in the 1992 Los Angeles riots, responsibility is superseded by various reductionistic determinisms.

Late modern America is caught in a severe crisis of Western culture, first signaled by Hume, then Kant, and Rousseau. Social science, as Auguste Comte (1851/1865) envisioned it, was conceived as an institution of salvation, a means to organize and maintain social order.
order in the face of revolutionary anarchy. Later it was suicide that motivated Emile Durkheim (1897/1968), the "Father of sociology" to analyze the social world, recognizing that "economic individualism" and a decline in social "solidarity" was threatening the mental health of the industrializing world. While loneliness ("anomie") had been addressed in the mythic world by religious injunctions, the modern develops social science. The very rise of traditional religion and social science as the new "positive religion" signal a problem. They are reactions to fear and despair. While hurt drives some to poetry, it drives others to statistics. Neither solution has yet resolved the "problem". The struggle between order and change, diachrony and synchrony, stasis and flux, progress and stagnation, continues to mark Western and Westernizing societies. Like its mirror image twin brother Eastern Europe, which embraced extreme and vertical collectivization, twentieth century United States is suffering a crisis of extreme individualism.

The predominant paradigm, that is, what counts for knowledge, equates causal explanation with understanding. Thus, insofar as the court could not enumerate causes for the shooting of Yoshihiro Hattori, the shooting remained a mysterious phenomenon. "Fear", especially of such a hysterical variety, is a nebulous explanation and one many cannot understand. The uncanny aspect of this killing, which is increasingly becoming the norm in murder cases, also justified acquitting Mr. Peairs of any legal culpability. This uncanny aspect has been variously called, "hysteria", "siege mentality", "reflex action", "fear", "terror", and "thoughtlessness". A Gebserian interpretation suggests that in the face of a disintegrating modernity, people like Rodney Peairs are being increasingly controlled by mythic emotion and magical identity with power. Although neither are "rational" they do make sense; a kind of sense that many of his "peers" hold in common.

The jury in the criminal trial returned its verdict in less than three hours and the acquittal vote was unanimous. To one juror who said "A man's home is his castle" (and who was disqualified), it was so obvious that Mr. Peairs was falsely accused of manslaughter that she didn't even understand why the case had come to trial (Applebome 1993a: A11). Many in the city of Baton Rouge sympathized with Peairs, they saw him as acting "normally" under the circumstances. In order to understand the "normative" meaning of Hattori's facial features, smile, walk, and clothing, one must integrate the "normal" irrationality of late modern America.

Notes

1. Because Gebser followed the basic tenets of Husserlian phenomenology, he presumed no metaphysical exclusivity concerning what could be studied. Thus, Gebser did not limit his explanations to spatializing notions such as idealistic (top-down), and materialistic (bottom up) origins to "reality". Consequently Gebser draws no ontological distinction between "consciousness structure" and noumenal world "out there". While he offers a mass of evidence to demonstrate that historical epochs are distinguishable by the fact that each one is dominated by one of these structures (hence the recognizability of one epoch from another), he does so thirty years before either Thomas Kuhn (1962) or Michel Foucault (1969/1972) presented their respective neo-Husserlian archaeologies, and with far greater evidentiary rigor and precision than either of these scholars. He also rejects the notion of causal "progress" as a child of the perspectival mentality saying: We must exclude from our discussion as far as possible such misleading notions as "development" and "progress". The comforting conception of progressive and continuous evolution has been in vogue for more than two hundred years, ever since the publication of Vico's Principe di scienza nuova d'intorno alla comune natura delle nazioni in 1725. This evolutionary notion may well have been a good working hypothesis, but in time came to be regarded as a manifest, rather than limited, reality, and has demonstrated the familiar consequences of a biological conception a la Oswald Spengler (1923/1926). Yet no truly decisive process, that is to say, something besides a tentative and arbitrary occurrence with its provisionalities and recurrences, is a continuum. A true process always occurs in quanta, that is, in leaps; or, expressed in quasi-biological and not physical terms, in mutations. It occurs spontaneously, indeterminately, and, consequently, discontinuously (Gebser 1949/1985: 37). This is why Gebser doubts the veracity of the claim made by positivists about their own superiority to any and all other ways of being. He argues thus, "Consequently, we do not share with the positivists a conviction that the contemporary positivistic stage, or any rational, perspectival structure represents the non plus ultra of human development. Rather, in constant opposition to Hegel and Comte, we are convinced of the continuous effectuality of the 'earlier' structures in us and the incipient, i.e., present effectuality of the so-called 'future' structure" (Gebser 1985: 42-43).
2. “Emergence” and “emergency” indicate the crisis that characterizes a mutational shift in world-structure.

3. As a consequence of this case, tourist agencies in Japan started giving short courses on American idioms to prepare their clients for the contingency that they may need to react appropriately to orders given by Americans.

4. In order to stress that Mr. Peairs is a “good” citizen, Unglesby called several character witnesses. On the other hand, the East Baton Rouge Parish District Attorney, Moreau did not use any character witness to support his claims about Mr. Hattori. As a result, Unglesby successfully appealed to the jury’s emotion and gave the impression that Mr. Peairs was a “good” man while Mr. Hattori was a reckless and menacing individual. Also, the only Japanese witness who was supposed to state the possible confusion about the word “freeze” was interrupted by Unglesby so that he was unable to say anything substantial (see Yoshi-nori Kamo’s America o Aishita Shònen, 1993).

5. Having inherited a German attitude and linguistic prejudice that equated “thinking” and “intelligence” exclusively with linear “reasoning”, Gebser used this language, but in a new way.

6. It is also very evident that many Japanese journalists and commentators acted irresponsibly by using this single story to inflame and justify irrational prejudices against Rodney Peairs specifically and the United States generally. Much of the reporting was very ethnocentric, such that the shooting death of Yoshi Hattori was exploited to fan the flames of emotion and boost ratings. It seemed that many (not all) television and press personalities were competing to see who could express the most indignation and thereby enhance their own public images as great patriots and “civilized” Japanese.

7. For instance, in Oklahoma, several prominent conservative state legislators pushed through a law, which would allow Oklahomans to carry concealed firearms. When the bombing of a Federal Building in Oklahoma City occurred (Spring 1995), those same conservatives rushed to call for all means necessary to arrest the perpetrators. The concealed weapons law was just about to go into effect so that many legislators found themselves in the embarrassing position of supporting the same gun policy as the various anti-government militia in the news. Faced with the inconvenience of the timing of the bombing they voted to postpone the enactment of the law until September of 1995.

8. According to Gary Kleck, professor of criminal justice at Florida State University guns play a substantial defensive role that never shows up in statistics (Applebome 1993). He argues that 10 recent studies have borne out that the use of guns as a deterrent to crime is widespread. In his own research he claims that about 1.4 million defensive uses of guns occurs each year and that ninety-nine percent of those defensive uses don’t involve a gun being fired. The picture that emerges is that guns are being waved around in threatening fashion, and shot by the not so civil population very often in the United States.

9. In the less predictable environment of contemporary American public space, foreign victims are accorded far more attention than cases involving domestic victims, especially African American victims. Meanwhile, an audience of millions of Japanese could not understand what had happened. The “Freeze Case”, as it was called in Japan, became a major topic in the mass media for months. The fact that initially the U.S. media treated it as just another accidental shooting until the international implications became apparent is a sign of the vastly different valuations of the incident. William Booth a staff writer for the Washington Post represents this attitude when he wrote in his report of the acquittal that, “On its surface, the case seemed mundane if tragic. A homeowner with a gun mistakenly kills a man he believes to be an intruder” (emphasis added, Booth 1993: A6). In fact the way the Japanese media correspondents reacted to the case so impressed Booth that they became part of the story for him. Booth wrote that: “Japanese reporters were particularly surprised that the man who shot and killed an unarmed boy was described by neighbors and character witnesses as a respectable citizen. All the reports noted with surprise that courtroom spectators broke into applause when the verdict was announced... the simplicity did not make it easy for Yoshito Okubo and dozens of other Japanese correspondents to explain the incident to people in their country” (Booth 1993: A6). The courtroom scene was itself offensive to the Japanese. Yoshihiro Hattori’s father, Masaichi Hattori, who attended the trial, was baffled by the adversarial (perspectival) nature of the American legal system. He was angered that Peairs’ lawyer portrayed his son as being “unusual”, and he complained that, “The defense attorney emphasized only points advantageous to him” (quoted in “Defense Depicts”
As reported in the New York Times by David E. Sanger on May 25, "By Japanese standards, it [the courtroom] lacked both restraint and taste. ‘Citizens made V-signs’ for victory, the MainichiShimbun reported, ‘just like in the Westerns’" (Sanger 1993: A17).

The Japanese, who do not use juries, were shocked by the celebration generated by the American system of adversarial justice. At the very beginning of the trial it was noted that, "Japanese reporters reported back home with amazement in their voices that the Louisiana defense lawyer had used his peremptory challenges to insure that everyone on the jury believed in the right to keep a gun at home" (Sanger 1993: A18). Compounding the problem was the fact that Mr. Peairs never expressed any regret or apology to either the Hattoris or Haymakers personally, although he did say he was sorry for the entire affair to the court.

Meanwhile Louisiana Lieutenant Governor Melinda Schegmann, appearing on ABC's "Nightline", which was broadcast nationally in Japan, seemed more concerned about tourism than the boy who was killed. She repeatedly stressed that Louisiana has about one-half million international visitors a year and most leave with positive feelings. The Japanese audience was flooded with descriptions of the United States as a "country obsessed with guns". Television viewers were taken on tours of local restaurants where guns were displayed like art and to local supermarkets that sell magazines for gun enthusiasts. After the acquittal, Japan's largest newspaper, the Yomiuri Shim bun reported that, "The pathology of life in The Gun Society is horrifying" (quoted in Reid 1993b: A22). Yoshiharu Muto, New York Bureau chief of the Tokyo Shim bun wrote, "Everybody knows this is the only country in the civilized world that allows people to possess handguns that easily" (quoted in "Japan Watches Intently" 1993: 12). Appearing on a TV Tokyo newscast, Professor Sodei Rinjiro of Hosei University claimed that the acquittal was to be expected because, "the whole Americansociety is obsessed with guns" (quoted in Booth 1993: A6). He also said, "With the collapse of their economy and tension between the races, Americans spend their lives full of anger and fear" (Reid 1993a: A14). Shinsuke Tanaka, a correspondent for Tokyo Broadcasting System who also covered the raid on the Branch Davidian compound in Waco, Texas, said that, "In America when the police pull you over, you keep your hands on the wheel so they won't shoot you. [In Japan] even a policeman firing his gun at a criminal is top news—even if he doesn't hit him" (Booth 1993: A6). TV-Asahi commentator Takashi Wada spoke to the Japanese audience saying that, "Japan has always looked up to America. But now, which society is more mature? The idea that you protect people by shooting guns is barbaric" (Reid 1993a: A14). Japan's most popular news anchor, Hiroshi Kume of TV-Asahi, commented that, "It is said that the ready acceptance of guns in America is just the result of a cultural difference, but over there—how can you call it a culture?" (Reid 1993a: A14). Commenting in the Yomiuri Shim bun, Professor Masao Horibe of Hitotsubashi University compared American suburbs to war zones in the Third World, specifically Cambodia where Japanese soldiers for the United Nations had been killed. Others claimed that America is a "developing nation still too young to break from its state-of-nature past" (Sanger 1993: A1). Associate Professor of American Cultural Studies at the University of Tokyo, Masako Notoji said: "I think for Japanese the most remarkable thing is that you could get a jury of Americans together, and they could conclude that shooting someone before you even talked to him was reasonable behavior. We are more civilized. We rely on words" (Sanger 1993: A1). Despite the Japanese Government's efforts to downplay the incident and to claim that America shares the same values as Japan, many Japanese believe that this case proves that "Americans are going by different rules" (Professor Notoji quoted in Sanger 1993: A17). Notoji argues that, "There is no way you are going to convince Japanese that the reasonable action, even if you are terrified, is to shoot someone in the heart as soon as you open the door" (Sanger 1993: A17).

10. The recent and very limited implementation of a very expensive computer analytic technique for comparing spent shell casings and retrieved bullets, may indicate that many murders are actually perpetrated by a small percentage of criminals who are repeat or "serial" killers. Preliminary evidence of serial trends seems to indicate that many murders are not totally random, but are the work of pathological "predators". As yet however, this remains a hypothetical claim in need of further study.

11. The percentage of such births of all ethnic and racial backgrounds in Detroit was 71 percent, in Washington D.C. 66.3 percent, in St. Louis 65.9 percent, in Newark, New Jersey 64.7 percent, in Atlanta 64.4 percent, with Cleveland, Baltimore Philadelphia, Chicago, and Pittsburgh all over 50 percent (USDHHS, 1993).
12. For instance, even in biologized discourse, no matter how "complex" or "advanced" an organism is, it relies upon the most fundamental cellular activities such as the creation of proteins for its viability. Thus the past of single celled life is not abandoned but integrally relied upon. Because of this, genetic engineers can go to a "primitive" life form like algae, take a part of its genetic material, say the part that gives the instructions for how to produce protein, which all living cells require, and splice that material into a human who is suffering from an inability to produce protein. This is possible because virtually all life shares the identical code for this function. Gebser calls his notion of mutation plus-mutation as opposed to the Darwinian notion of minus-mutation because past structures not only persist, but are integral to the present (1949/1985: 38). Though this may be a humbling and dehumanizing explanation it also applies to consciousness/culture. So-called "past" modes of awareness are integrally present and even presupposed suggesting that they are vital.

13. The standard charge for a stay at the resort-like treatment facility was about 4,000 dollars per week in 1993.

14. The web page for the World Wrestling Federation Entertainment Corporation boasts that their shows reach 20 million American viewers per week. The company syndicates 9 hours of programming a week to 120 countries. Based on this tremendous economic success, during the winter of 2000/2001, the WWFE launched a more explicitly violent and disrespectful version of professional football called the XFL. It may be more than a mere coincidence that a member of the board of directors of the World Wrestling Federation Entertainment Corporation is the former Republican United States Senator, Lowell Weicker Jr. Weicker. Like Jesse "the Body" Ventura, Weicker also ran as a third-party candidate and won a gubernatorial race, in Weicker's case, in Connecticut. Vincent McMahon became an instant billionaire when the WWFE made its initial public stock offering in October, 1999. His book Have a Nice Day, which is published by Smackdown Books, a division of the WWFE, has, at the time of this writing, been on the New York Times Bestsellers List for 26 weeks selling 754,000 units in its 18th printing thus far.

15. Witness the January 1994 scandal of government sponsored radiation tests on uninformed "subjects" (object is more appropriate) conducted by some of the aristocracy of the American scientific community and even defended by the President of the Massachusetts Institute of Technology.

16. Drive-by shootings are similar to the radiation experiments mentioned in footnote fifteen in that both are "cold blooded". Even preperspectival torture was more "humane" than these faceless phenomena.

17. The problem with drugs is the rational organization of distribution and sales—"gangs" and "cartels". The "business man" or "trafficker" is the source of the greatest violence in the drug culture. It is not because he is "high" that he is violent. In other words, it is not the product but the lucrative revenue generated by large-scale organized activity that fuels the violence.

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THE STATUE OF LIBERTY
AND THE HOLOCAUST:
A Phenomenology of
Semiotic Reversal

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1. Symbol as Rhetoric

Auguste Bartholdi's ageless Statue of Liberty stands in the New York City Harbor as it has since 1884, more than a hundred years now. Like other works of art, it continues to function aesthetically and extra-aesthetically as a sign to different social groups, in various times and places. But change usually takes longer than the four short decades required for this monument's semiotic value to reverse itself. Before France could place the statue on its pedestal as a gesture of friendship, poet Emma Lazarus had already discursively recarved it in her sonnet, "The New Colossus", written to be auctioned off along with manuscripts by Mark Twain, Walt Whitman, and Bret Harte. Heirs of the recently deceased Henry Wadsworth Longfellow and William Cullen Bryant also donated several selections to raise money for the Bartholdi Statue Pedestal Campaign (Harris 1985: 81).

At the time, Lazarus was developing a fresh perspective on her religion and her country. Although descended from one of the first Jewish families to emigrate from Europe, she had just begun to identify with Judaism. Previously isolated from society by her wealthy father, she had recently visited Ward's Island, where the sight of im-
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