

3-6-2018

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### Recommended Citation

Lasana T. Harris, *Dignity Takings and Dehumanization: A Social Neuroscience Perspective*, 92 Chi.-Kent L. Rev. 725 (2018).  
Available at: <https://scholarship.kentlaw.iit.edu/cklawreview/vol92/iss3/4>

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# DIGNITY TAKINGS AND DEHUMANIZATION: A SOCIAL NEUROSCIENCE PERSPECTIVE

LASANA T. HARRIS\*

## I. INTRODUCTION

Legal systems blend social cognition—inferences about the minds of others—with the social context.<sup>1</sup> This is accomplished primarily through defining group boundaries. Specifically, legal systems dictate which people are governed within their jurisdiction. These people can all be considered part of the ingroup that the legal system represents. In fact, legal systems were created to facilitate people living together in large groups.<sup>2</sup> This social contract requires people to be subject to the laws of their respective local, state, national, and international groups. Therefore, despite Rousseau's theorizing of legal systems being created for all humanity, people governed by legal systems are assumed to belong to the relevant ingroup, however such a group is defined.

Because human beings are capable of great good and evil—they commit human atrocities and (arguably) display altruistic behavior—it begs the question; what psychological mechanism could facilitate great help and harm? Here flexible social cognition provides insight. Since people are motivated by the contents of their minds, which drive their behavior, social cognition is central to legal decisions. Psychological research demonstrates that social cognition engagement is flexible, that is, it is possible to both extend social cognition towards non-human agents,<sup>3</sup> and withhold social cognition from other people.<sup>4</sup> The phenomenon of withholding social cog-

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1. See generally LASANA HARRIS, *INVISIBLE MIND: FLEXIBLE SOCIAL COGNITION AND DEHUMANIZATION* (2017).

2. JEAN-JACQUES ROUSSEAU, *ON THE SOCIAL CONTRACT* (G.D.H. Cole trans., Dover Publ'ns 2003) (1762).

3. See HARRIS, *supra* note 1.

4. See e.g., Lasana Harris & Susan Fiske, *Dehumanizing the Lowest of the Low: Neuroimaging Responses to Extreme Out-Groups*, 17 *PSYCHOL. SCI.* 847 (2006) [Harris & Fiske, *Dehumanizing the Lowest of the Low*]; Lasana Harris & Susan Fiske, *Social Groups that Elicit Disgust Are Differentially Processed in mPFC*, 2 *SOC. COGNITIVE & AFFECTIVE NEUROSCI.* 45 (2007) [hereinafter Harris & Fiske, *Social Groups*]; Lasana Harris & Susan Fiske, *The Brooms in Fantasia: Neural Correlates of Anthropomorphizing Objects*, 26 *SOC. COGNITION* 210 (2008) [hereinafter Harris & Fiske, *Brooms in Fantasia*]; Lasana Harris & Susan Fiske, *Social Neuroscience Evidence for Dehumanised Perception*,



nition is termed dehumanized perception: the failure to engage social cognitive processing in the presence of another human being.<sup>5</sup>

Legal theory incorporates dehumanization in thinking about mass atrocities against humanity, including as a tool to incite collective violence and genocide, as well as during dignity takings incurred when people suffer property seizure by the state or governmental authority. Focusing just on the latter concept of dignity takings, there are a couple of distinctions that immediately need to be made regarding the use of the concept in the legal context, and its view in the psychological literature. Firstly, legal scholars pair infantilization with dehumanization, treating them as separable constructs, while the psychological literature views infantilization as a component of dehumanization. For instance, some psychological theories of social cognition separate agency (one's ability to initiate one's own behavior) and experience (one's phenomenology), and situate infantilization within the experience dimension.<sup>6</sup>

Secondly, and more importantly, legal scholars consider dehumanization almost entirely from the target's perspective (for instance the person or group who losses property), whereas the psychological literature has empirically studied dehumanization from the perpetrators perspective. In the legal case, the perpetrator is the state, governmental authority, or some other non-human entity (such as a country). Indeed, perhaps a person held the role of executor of decision, but it is often argued that any person in that role would be expected to execute the decision because it is in the best interest of the state or governmental authority, and the decision was taken not in the person's best interest, but in the state or governmental authority's best interest (and sometimes in the dehumanized victims' best interest as well). Therefore, the psychological literature can only comment on the psychological state (perhaps) of that executor of the decision, not on the cultural perspective that sanctioned dehumanization of the group or person by the state or governmental authority, in order to better align state or governmental interests. Therefore, throughout this review paper, I will consider whether there was a specific, *identifiable perpetrator*: an actor or actors whose minds may have engaged a dehumanized perception. If such a perpetrator can be identified, then I argue that the social role (an aspect of the social context) encouraged a dehumanized perception.

20 EUR. REV. SOC. PSYCHOL. 192 (2009) [hereinafter *Social Neuroscience*]; Lasana Harris & Susan Fiske, *Dehumanised Perception: A Psychological Means to Facilitate Atrocities, Torture, and Genocide?* 219 J. PSYCHOL. 175 (2011) [hereinafter Harris & Fiske, *Dehumanised Perception*].

5. See sources cited *supra* note 4.

6. Heather M. Gray et al., *Dimensions of Mind Perception*, 315 SCI. 619, 619 (2007).



This approach applies all five tenets of dehumanization espoused by the psychological research. The first tenet states that everyone is capable of dehumanization. This is satisfied because anyone in the social role would have enacted the decision that resulted the dehumanized perception. It suggests everyone is capable of dehumanizing another person if the people in the role are not exceptional in some way, such as psychopathic, or in possession of a high number of sociopathic traits for instance. This is also easily satisfied in most cases. The second tenet states that the social context promotes dehumanization. This is satisfied since the social role as a kind of a social context determines when dehumanization takes place. The third tenet states that dehumanization does not always lead to negative behavior. Most behavior that results dignity takings does not stem from a negative or harmful act, but a logical or reasonable one that maximizes financial benefit, avoids harm of the victims, or makes a product or service more efficient. Therefore, the act itself is not harmful, and the outcomes are often positive for the state or governmental authority (though negative for the dehumanized victim). The fourth tenet suggests dehumanization is functional, allowing the completion of a task at hand. This is satisfied for reasons stated in the first and third tenet; dehumanization facilitates the decision-making process of the person or group of persons that results the dignity taking. Finally, the fifth tenet—dehumanization avoids empathy exhaustion—is the most difficult to satisfy without getting information from the decision-makers private minds. Therefore, this final tenet remains unsatisfied by my approach, but is nonetheless consistent with the fourth tenet that dehumanization is functional. Empathy is a negative emotional experience that results positive outcomes to others, often at a personal cost; avoiding such an emotional state is functional, particularly if the decision could result negative outcomes for the dehumanized victims.

## II. DEHUMANIZED PERCEPTION AND FLEXIBLE SOCIAL COGNITION

The actual, imagined, or implied presence of another human being spontaneously triggers dual person perception processes. This duality suggests that people are in fact Cartesian dualists. The first process is feature space matching—comparing the visual pattern of the person, including their height, skin color, and other appearance-based features to templates stored in the visual and temporal cortices of the brain<sup>7</sup>—allowing person

7. James V. Haxby et al., *Spatial and Temporal Distribution of Face and Object Representations in the Human Brain*, in *THE COGNITIVE NEUROSCIENCES* 889–904 (Michael S. Gazzaniga ed., 3d ed. 2004); Alexander Todorov, *The Social Perception of Faces*, in *THE SAGE HANDBOOK OF SOCIAL COGNITION* 96–114 (Susan T. Fiske & C. Neil Macrae eds., 2012).



identification, and triggering the second process, social cognition. This second process, however, does not depend on visual input to engage, allowing the imagined or implied qualifiers regarding the presence of another person to be necessary. Such social cognitive responses rely on Bayesian inferences aggregated from statistical information about the behavior of people<sup>8</sup>, as well as bodily responses that provide physiological feedback about the self.<sup>9</sup> In the brain, parts of neo-cortex, including medial prefrontal cortex (MPFC), precuneus, temporal-parietal junction (TPJ) extending along the superior temporal sulcus (STS) to the anterior temporal pole (ATP), and posterior cingulate cortex (PCC) underlie social cognition. This massive network of brain regions suggests that social cognition requires substantial processing, despite the fact that the experience of social cognitive engagement is spontaneous and effortless.

I argue that the social context and goals can determine whether social cognition is extended or withheld. For instance, regarding the other prominent use of dehumanization involving mass atrocities, collective violence, and crimes against humanity, instances of torture perpetrated by American and British troops in Abu Ghraib and Guantanamo Bay are due to the social context: a threatening environment and a chain of command demanding results perhaps resulted in these extremely harmful behaviors.<sup>10</sup> Similarly, genocides and collective violence in Rwanda, Germany, Yugoslavia, Cambodia, and Darfur were all enabled by social contexts that dehumanized the victims, painting them as vermin and less human. Most disturbingly, modern human trafficking and New World slavery resulted from social goals that prioritized profit at the expense of dignity, civility, and human decency. In all of these cases, social cognition could trigger emotional responses that would conflict with the social goals and the social context,<sup>11</sup> making dehumanized perception necessary.

However, the cases just described cannot be subject to experimental scrutiny for obvious ethical reasons. Nonetheless, dehumanization does not escape empirical study because brain activity provides an index of whether social cognition has been engaged or not. In one such experiment, partici-

8. See, e.g., Fritz Heider, *Social Perception and Phenomenal Causality*, 51 *PSYCHOL. REV.* 358 (1944); Alison Gopnik & Henry Wellman, *Why the Child's Theory of Mind Is a Theory*, 7 *MIND & LANGUAGE* 145 (1992). Alison Gopnik & Henry Wellman, *Reconstructing Constructivism: Causal Models, Bayesian Learning Mechanisms, and the Theory Theory*, 138 *PSYCHOL. BULL.* 1085 (2012).

9. Manos Tsakiris, *The Multisensory Basis of the Self: From Body to Identity to Others*, 70 *Q. J. EXPERIMENTAL PSYCHOL.* 597, 597–609 (2017).

10. Susan Fiske et al., *Why Ordinary People Torture Enemy Prisoners*, 306 *SCI.* 1482, 1482–83 (2004).

11. Harris & Fiske, *Social Neuroscience*, *supra* note 4.



pants were shown stereotypical pictures of different societal groups, such as homeless people, drug addicts, rich people, elderly people, and college students while undergoing functional magnetic resonance imaging.<sup>12</sup> Participants were tasked with indicating what emotions the pictures made them feel. Results reveal that the social cognition brain network was less engaged when viewing the pictures of members of traditionally dehumanized social groups such as the homeless and drug addicts. Participants also rated these people as lower on warmth and competence—the two primary trait dimensions of person perception—and indicated that they elicited disgust.<sup>13</sup> Moreover, they used less mental state verbs (such as wish, want, relax) when describing a day in the life of these people, rated them lower on dimensions that distinguish human beings from animals and objects such as intelligence and articulateness, and reported more difficulty when attempting to infer their personality and their mental state.<sup>14</sup>

Participants playing violent first-person-shooter video games also display the dehumanized perception brain pattern.<sup>15</sup> In this experiment, experienced video-game players competed against their friends in a kill-or-be-killed virtual scenario. These participants displayed the dehumanized perception brain response just before pulling the trigger to blow away their friends' avatars.

The dehumanization brain response also occurs in cases of sexism. Highly benevolent and hostile sexist men endorse ideas suggesting that women should be cherished, protected, and put on a pedestal, but should not engage in work outside the home. Such men exhibit the dehumanized perception brain response when viewing pictures of scantily clad females compared to fully clad females.<sup>16</sup> Moreover, such men fail to attend to the faces of scantily clad females, fixating instead on their bodies.<sup>17</sup>

Finally, everyday people are also capable of dehumanizing other everyday people. In one such demonstration, we first created a labor market based on participants' (players') ability to estimate time intervals. Another

12. Harris & Fiske, *Dehumanizing the Lowest of the Low*, *supra* note 4; Harris & Fiske, *Social Groups*, *supra* note 4; Harris & Fiske, *Dehumanised Perception*, *supra* note 4.

13. Susan Fiske et al., *A Model of (Often Mixed) Stereotype Content: Competence and Warmth Respectively Follow from Perceived Status and Competition*, 82 *J. PERSONALITY & SOC. PSYCHOL.* 878, 902 (2002).

14. Harris & Fiske, *Dehumanised Perception*, *supra* note 4.

15. Klaus Mathiak & Rene Weber, *Toward Brain Correlates of Natural Behavior: fMRI during Violent Video Games*, 27 *HUM. BRAIN MAPPING* 948, 956 (2006).

16. Mina Cikara et al., *From Agents to Objects: Sexist Attitudes and Neural Responses to Sexualized Targets*, 23 *J. COGNITIVE NEUROSCI.* 540, 540–51 (2011).

17. Philippe Bernard et al., *Integrating Sexual Objectification with Object Versus Person Recognition: The Sexualized-Body-Inversion Hypothesis*, 23 *PSYCHOL. SCI.* 469, 469–71 (2012).



group of participants (owners) were then endowed with money and bought five such players to comprise a time estimation team who would compete on behalf of the owners for the owners' financial benefit. Owners exhibited the dehumanized perception brain response when they viewed pictures of the players they purchased to compete on their behalf.<sup>18</sup>

In addition to the brain imaging evidence, behavioral evidence also supports the everyday occurrence of dehumanization, specifically in the context of intergroup relations. For instance, research on infrahumanization theory demonstrates that people attribute to their outgroup less secondary, complex emotions that require social cognition.<sup>19</sup> People rate outgroups as less evolved on a scale of human evolution.<sup>20</sup> Americans of predominantly African descent are implicitly associated with apes, and media references to ape and jungle analogies and metaphors during capital cases in Philadelphia predict whether a descendant of African, not European descent, will be sentenced to death.<sup>21</sup>

More importantly, the engagement of social cognition enacts moral and social rules that govern behavior towards other people, and allow us to impression manage since we can determine whether we have conveyed a positive impression to another person.<sup>22</sup> Human beings are agents—they are capable of originating their own behaviors. However they are flexible and intentional agents since they can change their minds. Moreover, when a person encounters another person, that second person is also forming an impression of the first person. Since people care about the impressions others have of them to maintain a positive reputation, they are constantly adjusting their behavior based on their social cognitive inferences. Additionally, it is very difficult to verify whether inferences gleaned from social cognition engagement are accurate since people are capable of deception.<sup>23</sup>

The occurrence of social cognition distinguishes person perception from object perception since people possess minds.<sup>24</sup> For instance, computers, like people, are information processing systems that register and learn,

18. Lasana Harris et al., *Assigning Economic Value to People Results in Dehumanization Brain Response*, 7 J. NEUROSCI. PSYCHOL. & ECON. 151, 159–63 (2014).

19. Jacques-Philippe Leyens et al., *Psychological Essentialism and the Differential Attribution of Uniquely Human Emotions to Ingroups and Outgroups*, 31 EUR. J. SOC. PSYCHOL. 395, 411 (2001).

20. Nour Kteily et al., *The Ascent of Man: Theoretical and Empirical Evidence for Blatant Dehumanization*, 109 J. PERSONALITY & SOC. PSYCHOL. 901, 901–31 (2015).

21. See, e.g., Phillip A. Goff et al., *Not Yet Human: Implicit Knowledge, Historical Dehumanization, and Contemporary Consequences*, 94 J. PERSONALITY & SOC. PSYCHOL. 292 (2008).

22. See generally SUSAN T. FISKE & SHELLEY E. TAYLOR, *SOCIAL COGNITION: FROM BRAINS TO CULTURE* (2d ed. 2013).

23. See generally HARRIS, *supra* note 1.

24. FISKE & TAYLOR, *supra* note 22.

and display agency in that they can make decisions based on programmed algorithms. However, because they do not have minds, we are not concerned with their impressions of us, and we do not apply moral rules when interacting with them.

### III. PUNISHMENT

As discussed above, the concept of dehumanization is central to legal arguments regarding genocide and crimes against humanity, but recently it has been incorporated into property law with the concept dignity takings. In such legal instances, the relevant group perhaps can be considered all humanity. In fact, I argue elsewhere that the concept of human emerged from the concept of ingroup.<sup>25</sup> In our evolutionary past, human beings lived in much smaller groups than we do today. As a result, most other humans encountered were ingroup members. Legal systems therefore can allow exclusion from the ingroup of humanity, utilizing dehumanization and dignity takings since dehumanization excludes a person from moral and legal protection reserved for human beings.

Moreover, legal systems are primarily concerned with punishment. More specifically, legal systems are concerned with punishing people with bad minds that motivate bad behavior. This allows legal systems to enforce rules that govern social interactions, and interactions between individuals, institutions, and non-human entities such as the state or government. One motive for punishing such people is to influence the future occurrence of such behavior, both by incapacitating the guilty party, and by deterring others from engaging in such behavior. As a result, punishers have become professionalized in modern societies, including prosecutors, judges, police and prison officer.<sup>26</sup>

When considering the brain, research on punishment suggests that it is driven by a largely affective response.<sup>27</sup> Participants' punishment severity tends to correlate with activity in the amygdala; a brain region implicated in fear conditioning, learning, and general emotional processes.<sup>28</sup> This is consistent with the functions of punishment. Punishment communicates to the punished and to everyone else that the social contract is not to be broken. It suggests that the group is not to be tampered with. Indeed, forms of

25. HARRIS, *supra* note 1.

26. Fiery Cushman, *Punishment in Humans: From Intuitions to Institutions*, 10 PHIL. COMPASS 117, 133 (2015).

27. Joshua Buckholtz et al., *The Neural Correlates of Third-party Punishment*, 60 NEURON 930, 930–40 (2008).

28. THE HUMAN AMYGDALA (Paul J. Whalen & Elizabeth A. Phelps eds., 2009).





punishment in human history often entailed public displays, for instance impaling severed heads on pikes that were then displayed at the castle wall. Given that emotions are also communicative signals, providing information about the internal state of the person displaying the emotion, it follows that an emotional response drives punishment decisions.

Moreover brain systems underlying punishment often extend beyond the amygdala,<sup>29</sup> incorporating regions of prefrontal cortex (PFC) and orbito-frontal cortex (OFC) involved in higher order cognition such as reasoning and decision-making, as well as the anterior insula, a brain region involved in disgust responses and interoception.<sup>30</sup> Other subcortical regions are also involved beyond the amygdala, including the periaqueductal grey as well as parts of the striatum: brain regions important in learning and decision-making.<sup>31</sup> This suggests that punishment is more than an affective response, but requires higher order cognition and decision-making, and triggers learning mechanisms.

These brain activation patterns are also consistent with other functions of punishment beyond communicating something about the social contract and the ingroup. Punishment also enables restoration of the ingroup, building group cohesion.<sup>32</sup> This may occur because punishment also satisfies the need for vengeance amongst group members.<sup>33</sup> Again, earlier forms of human punishment allowed each member of the group to enact vengeance: placing the punished in stocks for public display and torment, groups pelting stones or other projectiles at the punished, and public executions all allow the group to exact some measure of vengeance. Interestingly, here we have group behavior perpetrated by specific actors who are not identified or held accountable, but all of whom presumably have a similar mind-set that motivates the negative behavior against the punished, painting it as necessary. A similar phenomenon occurs during dignity takings, where the individual that facilitates the dignity taking is not held accountable, and the larger group (state or governmental authority) is blamed and held accountable.

29. See Ben Seymour et al., *The Neurobiology of Punishment*, 8 NATURE REVS. NEUROSCI. 300, 303–11 (2007).

30. A.D. Craig, *How Do You Feel—Now? The Anterior Insula and Human Awareness*, 10 NATURE REVS. NEUROSCI. 59, 60–70 (2009).

31. Daphna Shohamy, *Learning and Motivation in the Human Striatum*, 21 CURRENT OPINION NEUROBIOLOGY 408, 408–14 (2011).

32. George Homans, *Social Behavior: Its Elementary Forms*, 63 AM. ANTHROPOLOGIST 1339, 1339–40 (1961).

33. Kevin Carlsmith & John M. Darley, *Psychological Aspects of Retributive Justice*, in 40 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 193, 226 (2008).



## IV. DEHUMANIZATION AND DIGNITY TAKINGS

The legal concept of dignity takings states that this phenomenon occurs when the state confiscates or destroys property from individuals considered less than human.<sup>34</sup> This concept that originated within property law has been expanded beyond this domain (see the contents of this law review issue), and now includes instances where dehumanization facilitates actions by the state or other governmental authority outside the domain of property, including medical care, education, and music among many others. The commonality across these different domains is that something has been taken away by a non-human entity, or group (state, governmental authority, even culture), from another person or group of persons. Therefore, dehumanization is central to this legal concept (as stated above, I include infantilization as a form of dehumanization, thus I will only discuss the broader concept).

However, this legal concept that hinges on dehumanization makes a number of assumptions about dehumanization that rely on lay theories, not the scientific research described above. As a result, there are important differences between the psychological concept of dehumanization, and dehumanization as it is discussed in the legal case of dignity takings. For instance, lay theories of dehumanization associate it with humiliation and violence. However, the scientific research suggests that dehumanization is more of an everyday phenomenon, capable of being committed by anyone against anyone else. Furthermore, as described above, the scientific view of dehumanization requires an identifiable perpetrator: a person whom is responsible for failing to infer the mind of another, thus makes a decision or takes action that results in dignity taking. But the dignity takings concept does not require an identifiable perpetrator, and leverages the perpetrator as the state or some other governmental authority. Therefore, no single person is responsible for dehumanizing the victims, and the dignity takings result as a consequence of the actions of the state or governmental authority.

How then are these differences best reconciled? Regarding the first difference, a milder definition of dehumanization as espoused by the scientific work is not inconsistent with the approach to dignity takings described in the other articles in this review. In fact, extending dignity takings beyond

34. See generally BERNADETTE ATUAHENE, WE WANT WHAT'S OURS: LEARNING FROM SOUTH AFRICA'S LAND RESTITUTION PROGRAM (2014); Bernadette Atuahene, *Takings as a Sociolegal Concept: An Interdisciplinary Examination of Involuntary Property Loss*, 12 ANN. REV. L. & SOC. SCI. 171 (2016); Bernadette Atuahene, *Dignity Takings and Dignity Restoration: Creating a New Theoretical Framework to Understanding Involuntary Property Loss and the Remedies Required*, 41 LAW & SOC. INQUIRY 796 (2016).



property law requires a milder definition of dehumanization, allowing it to be observed in employment, health-care, education, and even music and popular culture. Some might even argue that the initial move of dehumanization from human atrocities to property law necessitated a milder definition of dehumanization. The second difference is not as easily reconciled. In most cases, a specific actor is not identified as responsible for engaging a dehumanized perception during dignity takings. However, the experience of the dehumanized victims may allow us to reconcile the legal with the psychological concept. A state or governmental authority can be anthropomorphized, that is, can be viewed as possessing a mind. If a person experiences dehumanization, labeling the experienced behavior as ‘dehumanizing’ requires an inference based on the behaviors of another, including perhaps an anthropomorphized other. If the people who have their dignity taken view the state as an anthropomorphized being, then it is possible that they can infer that the state dehumanizes them, resulting in a dignity taking. This attempt at reconciliation hinges on the view of the victim, the person or group whose dignity has been taken, not the state or governmental authority perpetrating the offense. As a result, it is perfectly valid to consider the victims’ point of view, reconciling the legal definition of dignity taking with the scientific research on dehumanization. Next, I consider whether the scientific view of dehumanization may find support in a few of the cases of dignity takings described in this review.

## V. WEAKER CASES FOR DIGNITY TAKING WITH PSYCHOLOGICAL EVIDENCE

### A. *Criminal Punishment*

The more relaxed application of dignity takings beyond the domain of property law employed in this review allows a number of other legal domains to become relevant. One such domain is criminal punishment. For instance, psychological research has already demonstrated relationships between dehumanizing language in the media and death-penalty sentences.<sup>35</sup> Indeed, as Acevedo describes, the Common Law enacted in seventeenth century England not only sentenced the guilty to death (a fate worse than dignity taking), but also confiscated their property so that their heirs were also punished. This extreme form of punishment, it is argued, is an example of dignity taking because the heirs are now dehumanized, deemed not worthy of inheritance. The early American settlers who fled to the Mas-

35. See Goff et al., *supra* note 21.



sachusetts Bay Colony sought to avoid such harsh punishment, yet instantiated other forms of punishment that destroyed the body, not property. For instance, cases of ‘scarlet letters’, pillorying, whipping, and other forms of public punishment harken to medieval forms of punishment, communicating to the community that the punished was less than human.

One can argue whether indeed these forms of punishment carried out on the body constitute a dignity taking. More specifically, one can ask whether they meet the two necessary criteria for dignity taking: confiscation of property and dehumanization. The initial burden of proof lies with whether bodily harm equates to bodily confiscation. Incapacitating someone’s body denies them their ability to perform simple human biological functions, and could constitute a confiscation. Moreover, the state can take a person’s body and use it for their own purposes, such as forced labor while imprisoned. Therefore, the confiscation element of dignity taking seems to be present. However, proving dehumanization is a bit more difficult when subject to the criteria I have previously identified; an identifiable perpetrator. In these cases, the bodily harm was often carried out by a professional punisher who themselves did not make the decision to execute the harm. The decision to harm the body was often made by other professional punishers who themselves were simply following the advice of legal code, not their own personal motives. As such, we must rely on the concept of an anthropomorphized entity to justify that dehumanization has occurred. When one is hanged or burned at the stake, it is not possible to ascertain the one’s view of the state whose legal code promotes such behavior. This task becomes even more difficult since these are historical incidents with incomplete and other biased accounts. Therefore, the jury is still out as to whether these forms of criminal punishment constitute dehumanization and subsequent dignity takings.

### *B. Kurdish Independence.*

The difficulty of identifying unequivocally that dignity taking has occurred is suffered by other accounts beyond property law discussed in this volume. For instance, Albert argues that the Iraqi Kurds suffer dignity takings because of a denial of self-determination in their quest for independence and self-governance. Stated differently, the state of Iraq has taken their dignity because they have not been allowed self-governance when they are certainly capable of governing themselves. This view of dignity taking and the resulting dehumanization is consistent with the scientific definitions, but again lays the role of perpetrator at the feet of the state, not

a specific individual. Moreover, this view of dignity taking hinges on denial of property rights, in addition to a denial of self-governance.

Such dignity takings, however, require a person's mind to justify explanatory arguments for abuses that include dehumanization. Yes, Iraqi Kurds can report that they have experienced dehumanization and have had their dignity taken. But the social cognition requirement that these victims have an identified perpetrator, real or anthropomorphized, is more difficult to meet. Because the state, not a single mind (or small group of minds), was behind the denial of self-determination, then an anthropomorphized perpetrator is most likely. Perhaps political leaders represent the single individuals who execute the act, but if it is likely that any other non-Iraqi Kurd would have performed the behavior when in the role of political leader, then it is the role itself that is attributed mind, not the specific person involved. Does such an assertion remove the Iraqi Kurds from the realm of dignity taking? Perhaps not, given the property loss incurred at the hands of the Iraqi government. Nonetheless, the strong claim of dignity taking is difficult to justify since the perpetrator again is the state, not a specific individual.

### *C. Other Cases*

Similarly difficult justifications also occur with the Columbian land restitution, Polish workers, and African music appropriation in Europe. In each of these cases, it is extremely difficult to identify a perpetrator because the perpetrator is either the state, or culture. As such, though the victims have all suffered a loss, the application of the psychological definition suggests dignity taking claims fall slightly short.

## VI. STRONGER CASES FOR DIGNITY TAKING WITH PSYCHOLOGICAL EVIDENCE

### *A. Tax Delinquency Sales*

Perhaps the phenomenon of tax delinquency sales best meets the requirements for strong dignity taking claims. Kahrl describes a particularly egregious form of dignity taking related to tax delinquency: The sale of tax liens by governmental authorities to private investors resulting in the exploitation of specific populations, particularly racial minorities and the elderly, allowing the private investors to seize their property because of minor financial infractions regarding the paying of property tax. Here, dignity taking surrounds the abuse of tax laws and loopholes by private investors to dispossess those who are more vulnerable to dehumanization

because of their social class, ethnicity, or age. This case does provide an identifiable perpetrator who is responsible for dehumanizing a victim: the private investors. However, as is the case with other dignity takings, the dehumanization is facilitated by the state: changes in complicated property tax laws are not properly communicated to the victims, and payments are even sometimes ignored. Such obvious dignity takings demonstrate collaboration between the state and private investors to execute dehumanizing behavior, suggesting that even if specific perpetrators are identified, they are still not culpable since the state facilitates their abuses, making them legal.

One might argue for a strong case of dignity takings in cases of tax delinquency sales since the perpetrator can be identified. Despite the fact that a few such individuals could be identified, they do so only in the social role of private investors. Like all others, this role absconds them of blame given its legal status, but protests less against the moral responsibility attached to these people. Now we have a case of dignity taking with all components. Moreover, the manner of execution of the dignity taking suggests the minds of the homeowners were not considered, confirming their dehumanized status. Interestingly, this issue was first identified by formerly enslaved people of African descent in America, a most egregious case of dehumanization in human history.

### *B. School Closure*

The question remains have we made a turn, and have we identified instances of dignity taking that satisfies legal definition and could be backed up perhaps by strong biological claims? A similar account applies in school closures in Chicago, Illinois; another instance where the state, in collaboration with specific individuals, facilitates dignity takings. In this scenario described by Shaw, the governmental authority closes a neighborhood school, reassigning children to schools further away. These schools often required the children walking through violent neighborhoods bordering their own, rather than staying in their community, despite the parents' contributions to the development of the now closed school. Here, the identified perpetrator is the government board or council responsible for making such decisions. Again, their small numbers make them more identifiable, despite the fact that again their social role barred them from full legal culpability.

Moreover, this particular case adds another wrinkle; a consideration of what dignity takings may be like when a small group of people decide to enact property violations that result in the removal of communities due to dehumanization. Indeed, many people in the role of board or council repre-

sentative could make an alternative decision and go against the majority, but the majority nonetheless could be accused of dehumanization that results in dignity taking. Further, the criteria for school closure relied solely on an algorithm that failed to consider many variables relevant to community and the residents, along with failings by school board members to show up at meetings and hearings, confirming the suspicion of dehumanization and dignity takings.

### *C. Hospital Closings*

And such abuses continue concerning hospital care as well. Again, as is the case for schools, a community loses one of its most necessary institutions. In the particular case described by Ossei-Owusu in Los Angeles, California, not only did the local authority remove the hospital, but they replaced it with an inadequate one, allowing common descriptions of the hospital to be a place where you go to die, not survive. This particular level of dignity taking arises perhaps more on the implicit level, where the presence of a hospital, regardless of its ability to execute its intended functions well, is sufficient to avoid engaging the minds of the community members. This presents perhaps a case where dehumanized perception promotes rational cost-benefit analysis of information collected from such places, justifying all related decisions by the local authority.

The dignity takings suffered by the ethnic minority members of the population of Los Angeles is often unheard because it resulted in death. In this case, dignity taking leads not only to threat to life by walking through a dangerous neighborhood to attend school everyday, but often death and disability when such could have been avoided. Despite this fact, decision-makers can continue to live free of guilt because the psychological processes necessary to trigger empathy and other such social emotions like guilt, shame, and compassion have not gotten into gear. Death is no longer the great moral trigger it is in other instances.

### *D. Bath-Houses*

Another interesting case of dignity taking comes from the closure of bath-houses in New York city by the New York Public Health Authority described by Engel and Lyle. Such closures removed a safe space for socializing for members of the lesbian, gay, bi-sexual, and transgendered (LGBT) community since they used such facilities as places where their hidden stigma could be comfortably and safely revealed. LGBT identity is often concealed, meaning that the stigma is hidden, but focusing on the

physical spaces they occupied within the city could still target LGBT individuals despite the concealed identity. Bath-houses were one such physical space. What makes the closure of these facilities interesting is that the identifiable perpetrators (NYC Public Health) used claims regarding violations of public health codes as justification for the closures. In other words, the perpetrators claimed to be protecting the victims, not harming them. A similar situation occurred when considering the school and hospital closures discussed above; these institutions did not meet a metric for performance and or efficiency, therefore were deemed more harmful than helpful, warranting their closure.

But why would the perpetrators require a benefit claim as justification for their harm to the victims? Does this not suggest that they did not dehumanize the victims, but considered their minds and took action intended for their benefit? In the abstract, this certainly seems the case. However, true consideration of the victims' perspective would have led to an alternate conclusion, and the intended helpful behavior could have been clearly identified as harmful. In fact, many moral violations occur because of potential imagined benefits for the victims instead of simply considering their actual perspectives and consistent benefits. After all, many claimed at the time that the enslavement of Africans occurred in an attempt to rid them of their demonic religions and introduce civility to these less evolved people.

#### *E. Japan-Town*

A type of death can often occur to an entire community, again perpetrated by a governmental authority. When a city council reassigns the designation of a neighborhood for financial benefit, this often forces original occupants out, and destroys migrant communities. This is a specific case where economics can impact dehumanization. For instance, there once existed a Japan-town in Sacramento, California, as described by Joo. This neighborhood provided food, housing, and community resources for not only the Japanese migrants, but also those who valued and consumed Japanese products and culture, including such people from beyond the city limits. However, dignity taking was suffered when this neighborhood died because of the re-designation.

Again, the question remains; was there an identifiable perpetrator? In this case, blame can be attributed to the city council board members. Perhaps from their point of view, the goal was not to eliminate Japan-town, but to boost the economic viability of the land on which the neighborhood sat. Indeed, Japan-town's location in the heart of the city meant that it sat on prime real-estate, evidenced by the fact that today that land houses a sport-



ing complex, with retail shopping and upscale housing. Certainly, any objective person can agree that economically, much more money is made from the current use of the land than when the land hosted Japan-town. However, such purely economic views encourage dehumanization because they fail to consider the minds of the people affected by such decisions, instead considering only the financial rewards. Such an economic view probably led to the city council board members dehumanizing the Japanese migrants, and facilitated the dignity taking.

#### *F. Trailer Trash*

Similarly, changing the designation of land for financial benefit also leads to dignity taking of trailer park homeowners. Such people buy their low-cost home, often spending many years living in it, making substantial financial investments in their property. However, they typically rent the land on which such homes reside either from governmental authorities or from private investors. Occasionally, these investors or governmental authorities will reassign the use of the land, evicting mobile home owners. This reassignment is often for financial benefit; the land could become more valuable serving a different purpose rather than low-income housing. Despite the term 'mobile home', most trailer park homes cannot be moved because movement would result in extensive damage to the home. As a result, such homes are often demolished, and as happened in the Japan-town example, communities are destroyed, as described by Sullivan.

Unlike many other examples, finding an identifiable perpetrator in this instance is quite easy: the landowner. However, this person is well within their rights to do with their land as they please. Nonetheless, I argue that such a person making this decision has to dehumanize the mobile park homeowners, ignoring their minds and the financial and community loss they suffer due to the eviction. The clear identification of a perpetrator in this instance makes the dignity taking clear, even when the landowner is a governmental authority.

### VII. A FINAL THOUGHT REGARDING IMPLICATIONS FOR DIGNITY RESTORATION

Scientific research has failed to study the psychological consequences of being dehumanized. Such research is vital in order to achieve dignity restoration following behaviors by the state or governmental authority that results dignity taking. This research suggests that a singular mind is required for the actual occurrence of dehumanized perceptions that facilitate

dignity takings. However, since the state or governmental authority usually carries out such actions, then an anthropomorphized agent possesses the mind responsible. This makes responses to dignity taking to this anthropomorphized being different to general dehumanization suffered. Indeed, tyrants and dictators, single individuals, not people who simply fill the role of political leader or governmental authority figurehead, have classically been described as engaging in dehumanization. Moreover, when decisions are jointly made, this is a combination of many minds, diffusing the responsibility for the singular decision, making the anthropomorphism further necessary. Therefore, should the concept of dehumanization be left for the dictators, initiators of collective violence, or should it be applied to property law and all of these other domains?

Certainly, it does suggest that considering dehumanization from the perspective of the dehumanized person or group makes relevant the process of dignity taking, and provides support for dignity restoration attempts, whatever the consequences. An interesting conclusion from this discussion surrounds the definition of 'identifiable' in the phrase 'identifiable perpetrator'. I have argued that an identifiable perpetrator is necessary in order to attribute dignity taking to a particular case because this enables the inference that such a person ignored the minds or dehumanized the victims. In most of the examples discussed in this review, there is not a single perpetrator, but a small group who is responsible. Is there a particular group size above which the claim of 'identifiable' can no longer be made? Perhaps, but in the context of this discussion, I have argued that a dignity taking occurred when the identifiable perpetrators belonged to governmental committees, councils, and the like where there are a finite number of people involved in the decision-making process. I have argued that no dignity taking occurred when the identifiable perpetrator was a country, or another large group where a finite number of people did not make the decision, but the decision resulted from many other decisions that summed into the act that resulted the loss of property. It may be the case that this view of identifiable is itself flawed; one could argue that even in smaller groups, the decision-making process is such that many other decisions also sum to the action that results the dignity taking. However, though this may indeed be the case, the decision-making process in these smaller groups often does not result from such summation, but rather from a direct decision that result in the property loss. As such, these decision-makers can be considered identifiable. Nonetheless, this issue of identifiable perpetrator is irrelevant if dignity taking is simply considered from the victims' perspective. This is



where psychology has to do better if it is to continue to inform legal practice.

