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Source: *History and Memory*, Vol. 8, No. 2, Hannah Arendt and "Eichmann in Jerusalem" (Fall - Winter, 1996), pp. 89-136

Published by: Indiana University Press

Stable URL: <http://www.jstor.org/stable/25618707>

Accessed: 08-03-2015 12:55 UTC

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Between Eichmann and Kant: Thinking on Evil after Arendt

1. The Question

Can evil be both radical and banal? Hannah Arendt used both terms to describe the kind of evil she identified with totalitarianism in general and with the concentration and extermination camps in particular, but it is not clear that they are entirely compatible. In the third part of the *Origins of Totalitarianism* she dealt briefly with “radical evil,” invoking the notion in its Kantian sense, yet giving it a peculiar twist, on which she later expanded in *The Human Condition*:

... in their effort to prove that everything is possible, totalitarian regimes have discovered without knowing it that there are crimes which men can neither punish nor forgive. When the impossible was made possible it became the unpunishable, unforgivable absolute evil which could no longer be understood and explained by the evil motives of self-interest, greed, covetousness, resentment, lust for power, and cowardice, and which therefore anger could not revenge, love could not endure, friendship could not forgive.¹

But in *Eichmann in Jerusalem* she abandoned the notion of radical or absolute evil and preferred to subtitle her book with the more provocative and wholly secularized notion, “the banality of evil.”² No doubt, the reference in both cases was to that kind of evil of which “we [Arendt’s generation] have been exposed to one of [the] rare outbursts on the public scene,”³ i.e. the type of evil produced in both the Nazi and Bolshevik versions of totalitarianism (although for obvious reasons the Eichmann book dealt only with Nazism). But there seems to be at least some incongruity

between an interpretation that presents those “outbursts” as banal evil and one that presents them as radical evil.

Two striking differences between the two characterizations of evil may be discerned here:

(a) A man does evil, for Kant, when he consciously subordinates the moral law to the interests of self-love; this evil is radical because it corrupts the basis of moral law, its autonomy and sovereignty.⁴ If one remains even somewhat close to Kant, radical evil must assume the subject’s recognition of the moral law and his conscious, deliberate intention to violate it; Arendt speaks in this context about “willed evil.”⁵ But her presentation of Eichmann as a paradigm of an evildoer, and of the evil with which he was involved as banal does not rely on such intentions at all. One who becomes a “cog” in the machinery that produces such evil need not recognize the moral law nor have any clear intention to violate it – and yet each cog is held responsible for what every other cog did. The typical criminal in the regions of banal evil simply follows, usually thoughtlessly, the right – that is the awfully wrong – orders.

(b) The “hallmark” of those offenses that in *The Human Condition* Arendt calls radical evil is that they are both unforgivable and unpunishable: “men are unable to forgive what they cannot punish and they are unable to punish what has turned out to be unforgivable.”⁶ Arendt comes very close to arguing that one should abstain from punishing individuals who have committed evil deeds of such magnitude or nature that they should be considered as radical evil. One could infer from this short discussion of radical evil that Eichmann is unforgivable and therefore unpunishable. But Arendt makes it clear at the end of *Eichmann in Jerusalem* that he should indeed have been brought to trial, judged and hanged – though she would have preferred an international tribunal to an Israeli one, and the Law of Nations to the Israeli penal code.⁷ Arendt disagreed with the Israeli judges on the arguments they mustered in order to justify their decision, but she did not contest either their right to judge Eichmann or the death sentence they found fit for him.

If the same deed may be considered as both radical and banal evil, how should one explain the inconsistency regarding the punishment of perpetrators of evil deeds and what follows from it?

The perpetrator of banal evil need not know to distinguish right from wrong and need not intend to violate the moral law in order to be brought to justice, and yet his ignorance or lack of ill intention will not save him from the death penalty, whereas the perpetrator of radical evil, who knows the law and violates it purposefully, seems to be unpunishable.

Arendt herself was fully aware of these inconsistencies. In a letter to Mary McCarthy in which she explained the differences between her two accounts of totalitarianism, she even admitted that the very expression “Banality of Evil” contradicted the one she had used in her book on totalitarianism: “Radical Evil.” The subject, she added, was “too difficult” for her to be treated on that occasion.⁸ But I am not raising this difficulty in order to criticize Arendt or to resolve for her a problem she abandoned (although I shall suggest a solution). My aim is rather to use the difficulty presented above as a short cut to the heart of Arendt’s thinking about evil. What follows may be understood as a reconstructive interpretation of a concept of *political evil* based on a few passages in two of Arendt’s texts, *The Human Condition* and *Eichmann in Jerusalem*. I will not consider here Arendt’s corpus as a whole, but only a few lines of thought and their possible philosophical context, consciously ignoring some major aspects of the biographical or historical one. In the course of such a reconstruction, the limitations of Arendt’s analysis will be as important as her more convincing, powerful insights.

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2. The Theory of Action

For the sake of clarity I start with Arendt’s theory of action. It is on the basis of her analysis of the “structural elements” of human action that I will reconstruct her concept of evil and explicate her presentation of Eichmann as representing both “radical” and “banal” evil, as well as her justification of his death sentence.⁹

Arendt conceives action, labor and work as three distinct moments in the human condition: labor has to do with the satisfaction of natural needs and expresses man’s biological existence; work has to do with “world-making,” man’s mastery over nature, his ability to use means to achieve preconceived ends and create a material, durable and objective environment of life and

action; action has to do with man's "being-with-others," with others as initiators of words and deeds free of the need-satisfaction or the means-end logic of labor and work. There is no human *life* without the first moment, no human *world* without the second, and no *human* existence or freedom without the third. Yet among these three, the latter is certainly the privileged and most precious moment for Arendt, and the one that constitutes her political utopia. One may question at length these distinctions, the "purity" and irreducibility of each moment, and the way Arendt uses each one in order to think with, and mainly against, her main philosophical heroes in *The Human Condition*: Plato and Aristotle, Locke and Marx. For the purpose of this discussion, however, it is enough to recognize action as a *sui generis* moment of the human condition, irreducible to labor or work or any other aspect of human existence (e.g. communication or exchange).

This form of "being-with-others," not unlike Heidegger's understanding of being-with, does not come about as a result of bringing atomic individual human beings together.¹⁰ Actions are always carried out in relatively open, illuminated public space in which actors are visible to other actors; this visibility constitutes for Arendt the publicness of action. Only when exposed to the light of a public space can a deed become an action in the full sense of the word. The presence of others and the state of being present, presented and represented to others are more "primordial" than self-presence; in fact, co-presence is a condition of the possibility of individuation, of self-identity and of subjectivity. Action is the "leap" one takes, in the presence of others, to present oneself to others in the form of words and deeds and to shape oneself into what one is through this self-presentation. Action is always taken in the company of others, and yet this company is always also shaped by action. The others with and among whom one acts are equal actors, and one is constantly *exposed* to their actions, enjoying or bearing the burden of these actions' *unpredictable consequences*. Being exposed, with others, to the actions of others is different from the case of being affected, sometimes alone, like an object, by the forces others exert. Action always leaves those exposed to it the power to react otherwise.

Actions are linked in chains of action and re-action, which may be reconstructed a posteriori, through a *story*, but can never be

predicted a priori, by a *theory*. No re-action is determined by a preceding action; a re-action may always become an action in its own right starting something new. Actors are affected but not bound by the logic of needs or by considerations of instrumental rationality. The unpredictability of their actions is presupposed by the irreducibility of action to either labor or work and by the irreducibility of the power to-act-and-react to violence. Every action may begin something new, and every new beginning sets anew networks of interrelations among the actors: it robs the meaning of old actions by incorporating their effects into new chains of action and reaction, it presents the one who acts in a new light, and it closes and opens possibilities for others to act and react.

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Plurality, new beginnings, open-endedness, uncertainty, the weaving and unweaving of flexible, loosely structured networks of interrelations embodied in spaces of mutual visibility, in which identities are never fixed, and no pre-established teleology resides – these are what Arendt calls “the structural elements” of human action and of the public realm in which it dwells. These are also the main outline of the ideal form of Arendt’s political sphere. Attempts to tighten the structure of interaction, out of necessity, violence or other sources of instability, would result in restrictions upon or elimination of the freedom to act. Attempts to introduce permanent division within the network, e.g. by means of secrecy or privatization of certain zones within the network, would result in a severe limitation on the scope and domain of political action.

Anyone who is admitted to the public realm may act, i.e. be a source of a new beginning. The direction of action is determined anew again and again through the responses of those co-present at the scene of action. The outcome of an action, like the meaning of a spoken phrase, cannot be determined, not only in advance, but also after the accomplishment of the “original deed” or the original speech act because the meaning of an action or a phrase can always be written backward, so to speak, from the point of view of its ongoing consequences, as it is linked into manifold and various chains of action or speech.¹¹ In other words, the meaning of an action, or of a spoken phrase, may always be at stake as the network of communication and interactions continues to be woven and unwoven. Since action and speech determine identities, identities must be seized anew, through speech, display, action.

Through various forms of story-telling, the past is constantly woven anew into the present and unto the future.

The web of action seems as chaotic and dangerous as a post-modern disintegrated public sphere. But this is simply because we are speaking of freedom; hence the lack of structure and order, hence the danger. Arendt's theory of action is first and foremost an account of what I would like to call "the immanent plurality of freedom," or "the immanent freedom of the plural," which for her was (I think) the ultimate political value. There are two principal directions which Arendt pursues in order to think positively about this condition. The first is historical. She seeks *political forms of society*¹² which could make room for and contain the immanent plurality of freedom. At the same time, she tries to develop a scheme for a political history of the West, in which different political forms are examined in the light of the need to make room for the immanent plurality of freedom. This explains, I believe, her strong attachment to an idealized Greek polis (ignoring slavery, the exclusion of strangers and the oppression of women upon which the polis was built); but it also explains her critique of "the social" in modernity, which is a reduction of the plural to the many (the masses, the mob), and of the many to the one (the emergence of statistics, "the average," processes of "normalization," and above all the tyranny of the totalitarian state).¹³ The second direction is phenomenological.¹⁴ Arendt seeks in the sphere of human action, and in the history of the discourse about it, elements of cohesiveness that compensate for lack of order and certainty in the public realm, the sphere in which the immanent plurality of freedom is realized and comes to the fore. These elements are universal, belonging to the human condition in general. They may take different forms in different historical and cultural settings, but this does not affect their cohesive function. Mutual visibility is one such element, and Arendt's insistence on it in various places in the book should be interpreted in this light.¹⁵ Three other elements are introduced by Arendt as different mechanisms for the stabilization of human action: forgiveness, punishment, and promise. It is in the context of the discussion of these three that Arendt's remarks on radical evil appear, and it is to this context that we now turn.

3. To Promise, to Forgive, to Forget

Arendt speaks about forgiveness and promise as two types of constraints that introduce some order into an otherwise chaotic network of interaction, i.e. a network of acting-speaking-being-with-and-among many. Forgiveness lets one stabilize the past; promises strive to stabilize the future. Both work to increase order in the chaotic network. The first act unites a chain of actions and reactions and frees the actor from the deed that has assumed unintended and unwanted consequences. It thus allows for a new beginning and a change of direction for the sake of better cooperation and coordination between the wrongdoer and the victim in particular, and among actors in general. Forgiveness is a personal (though not necessarily private) matter between the author of the act and its victim, and it presupposes the general good will of the former and the generosity of the latter.¹⁶ The doer is not that bad, he has not intended that which has happened; the victim is generous enough, he knows that he is not immune from bad consequences either, and he expects mutual forgiveness. Forgiveness allows one to begin anew, that is, to take again one's position in the sphere of human interaction, where new beginning is the name of the game. Without it, the burden of the past, of the unforgivable deed, would block one's way in the public sphere.

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Promise works in the opposite direction. It ties the doer to a certain chain of activity and directs her toward a certain pre-established and intended consequence of her deed. Where there is a promise there is a debt, and where there is a debt there is a tie between the one who is indebted and the one who gives the credit. But the one who promises is also tied to her own promises, as promises narrow the possibilities of one's free (or at least fair) play in the realm of action and enable one to maintain one's self-identity as an established pattern for future ties in the network.¹⁷ Promises create new ties in the network, signal directions and indicate that a certain progression of events is more likely to happen than another. Since the network is always also a network of communication, these signs have their own impact on the responses of others co-present at the scene of action and increase cooperation and coordination among them. Promise too is a personal matter, but unlike forgiveness it often takes place within

or on the basis of institutions that could help or force the one who has promised to fulfill what was promised. And here too, good will and generosity are at play. Promise presupposes the general good will of the one who promises, and the generosity of the one to whom a promise has been made, who is willing to postpone the fulfillment of the promise to the future, to defer the payment of one's debt.

Both promise and forgiveness rely on memory. One must remember in order to forgive and in order to fulfill a promise. Therefore there is always something awkward when one promises not to forget, for in order to keep one's promise one must not forget to begin with. Arendt tells a macabre anecdote about Eichmann's last words under the gallows: "Long live Germany, long live Austria, long live Argentina. I shall never forget them." Eichmann used clichés ready for the funeral of his comrades; "he was 'elated' and he forgot that it was his own funeral."¹⁸ Facing death, one is deprived of the power to promise; from now on there will be neither memory nor forgetfulness, and a promise not to forget is meaningless. Coming to one's end, there is no way to tie oneself to the future, there is nothing in the future to hold onto, although one's manner of dying may tie others to their own past and future.¹⁹ This may have something to do with the secretive and too speedy way in which Eichmann was put to death, his body cremated and its ashes scattered over the Mediterranean Sea, as if the Israeli government wanted to make sure that nobody would be able to use the memory of this man as a tie in any sphere of future action.

Memory is a complex network of ties between the past and the present, and between the present and the future (in the form of memorials, commemorations, etc.). And no less important, memory is also a network of ties between those who remember (and forget) together, a medium of "togetherness." This network of ties can be suffocating, however, as Nietzsche so well understood.²⁰ The one who forgets cannot forgive, but the one who forgives (or is forgiven) is free to forget; forgiveness unties. Similarly, he who fulfills promises is free to let his memory loose and untie the knot that promise creates. Before forgiveness, or before the fulfillment of a promise, forgetfulness acts like a virus in the network: it prevents the untying of old entanglements and

loosens ties necessary for successful coordination and cooperation among actors. After forgiveness has been granted or a promise fulfilled, it is memory that becomes the virus; it infects the network with unnecessary ties that block new beginnings; it distorts identities; and it increases the burden that the past and the others who represent it exert on the forgetful actors.

4. Punishment

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Promise and forgiveness are not the only means mentioned in this context for the coordination of action. There is another “structural element” that works in the same direction, namely punishment. A wrong deed, just like a promise, creates a debt. There are two “alternative” ways to balance it, i.e. to untie the entanglement it creates: the wrong deed (of which an unfulfilled promise is but an example) may be forgiven. And it may be punished.²¹ Arendt seems to regard punishment in this context merely as a “final retribution,” a way of recovering an impaired balance by fixing external limits on the possibility of retaliation. We must ignore for the sake of this discussion other aspects of punishment in which Arendt is not interested here. But even if one accepts this narrow perspective on punishment, two problems remain: (a) The symmetry portrayed above between forgiveness and promise (which goes, I readily admit, beyond Arendt’s words in *The Human Condition*, but never beyond what a sympathetic reader can make her mean) seems to be broken by the introduction of a third structural element. Punishment is an “alternative” to forgiveness,²² i.e. an alternative relation to the past that has no corresponding pair on the side of promise, i.e. on the side of the relation to the future; and (b) unlike forgiveness and promise, punishment is almost entirely an institutional matter. Even when it is carried out between intimate partners (e.g. in the family, among friends), the authority to punish and the scope and nature of punishment are strictly restrained if not entirely determined by social and political institutions.

In order to incorporate punishment into the analysis and get rid of these two problems, we must look further into the nature of punishment as retribution. Unless the bearer of punishment accepts his punishment like a rational Hegelian criminal, whose no

less rational victim takes punishment to be the “annulment of the crime,”²³ punishment creates new debts and new, often unbearable ties. It is the opposite of a promise, in the sense that the debt is imposed and not willingly accepted and that the one who owes now may hardly be aware of the debt. While promise creates a contract and forgiveness is a substitute for it, or a healing when the contract is breached, punishment assumes a contract which may have never existed and creates a rupture which may never be bridged. At least this is the case when punishment is severe, painful or humiliating. Because there is no contract, or at least the two parties cannot come to an agreement about its meaning, and because the rupture may be so painful, the actors must rely on violent means and on the powers authorized to use them, and these – in Arendt’s political theory – always lie outside the public sphere of human interaction. The symmetry portrayed above was broken precisely because punishment cannot remain a personal matter (i.e. a matter between two persons, but also a matter among equal persons) and it must involve some authority, and yet it is indispensable for ongoing and free human interaction. Both promise and forgiveness may structure the coordination and enhance the cooperation among actors only because punishment, i.e. the intervention of violent authorities in the public sphere of speech and action, is always a real possibility.

For many readers, Arendt’s account of the public realm has seemed idyllic and unrealistic, a mixture of nostalgia and utopia. The introduction of punishment as an organizing principle of human action means that despite its utopian elements and nostalgic remnants, this discussion is mainly a conceptual analysis of the structural elements of human action, i.e. the minimal constraints that make possible the co-presence and interaction of human actors woven in a chaotic network of interrelations. Placed at the limit of the public realm, the institution of violence is a necessary condition even for the least structured, most open and loosely tied sphere of human interaction. Arendt’s later affirmative emphasis on the political authorities of the modern state could be interpreted in this light.

Violence excludes, oppresses, destroys. But in the case of punishment, it is presupposed and sometimes employed in order to re-integrate. If forgiveness is a form of acceptance based on

respect,²⁴ punishment is a form of acceptance based on violence. For the believer, in the context of a Christian community, there is a clear separation between the two forms. Forgiveness “make[s] it possible for life to go on by constantly releasing men from what they have done unknowingly,” while punishment is “taken care of by God in the Last Judgment,” i.e. by divine authority and divine violence, and it is basically a “just retribution.”²⁵ But this separation between “life on earth” and whatever happens beyond it cannot be maintained in a political community. There punishment is a form of suspense but not a negation of one’s belonging to the public realm. Punishment may not annul the crime, as Hegel thought, but it certainly gives the punished criminal a new entry into the public realm. After paying one’s “debt” to society (the debt to the victim is another matter), one is again free to be seen in “the space of appearance,” to act among one’s fellows and in their presence.²⁶ Unlike forgiveness, however, the knots that tie the criminal to his fellows in the public realm are first untied and then retied by the violent intervention of a public authority.

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This attitude has its limits, of course. There is a point beyond which punishment can no longer be a form of suspense from and reacceptance into the public realm, but becomes a mechanism of total exclusion. There is a point beyond which forgiveness is impossible, for *what* one *does* destroys whatever is left of the respect for *who* one *is*. There is a point when “men are unable to forgive what they cannot punish and they are unable to punish what has turned out to be unforgivable.” This point is somewhat confusing, for the equivalence between punishment and forgiveness seems to eliminate their differences. Punishment now sounds like a personal matter and the authority that lies outside the public realm, whether divine or political, is not mentioned. But there is a reason for this seeming confusion. On the boundary of the public realm, at the point of total exclusion, the only thing that matters is the diminishing respect for the wrongdoer who, through “willed evil,” excludes himself, cuts his ties with the public realm whose very possibility he now threatens from the outside. Powerful authority is now needed in order to protect the public realm from the evildoer, but this has nothing to do with the denial of his entry back into the web of human interaction. That such a man can neither be punished nor forgiven means that it is impossible to

renew the ties that link him to the network. The network is ruptured twice: the offense is unforgivable *because* it is unpunishable, and it is unpunishable *because* it is unforgivable. And in both cases, this relation makes sense only on the basis of deliberate unforgetfulness. At the moment of exclusion, the burden of memory has no limit, for he who forgets may be able to punish and then to forgive (or vice versa). At the moment of exclusion, when the agent of willed evil becomes a radical other, memory must become perfect. This perfect memory, however, has its exact counterpart in the opposite extreme, when willed evil becomes a mode of total inclusion in totalitarianism: the systematic manipulation of memory, the erasing of the multifaceted past and the erection of the one and only past to be remembered for ever.

5. Radical Otherness

We have been speaking about “the true hallmark ... of ‘radical evil’... about whose nature so little is known, even to us....”²⁷ In his *Religion within the Limits of Reason Alone* Kant devoted much space to reaching a similar conclusion about the origin of radical evil, whose “subjective ground or cause ... cannot further be known.”²⁸ Arendt is less interested than Kant in the etiology of radical evil and has only this observation to add about what one may call its “cultural reception”: “All we know is that *we* can neither punish nor forgive such offenses and that they therefore *transcend the realm of human affairs* and the potentiality of human power, both of which they radically destroy....”²⁹

But we do know a little more, and we may pursue Arendt’s line of thought a few steps further, relying also on the passage from *The Origins of Totalitarianism* we have read before: radical evil is an outburst of a conscious violation of moral law; it causes a breakdown of the network of human interaction; it has emerged within a political system in which all men have become equally “superfluous”; it destroys the very existence of a public realm and threatens the very nature of man; if actors of the public realm survive the outburst they cannot accept the evildoer again and refuse to renew any tie with him: just as the victims in the death factories or the holes of oblivion are no longer “human in the eyes of their executioner, so this newest species of criminals is beyond the pale

of even the solidarity of human sinfulness.”³⁰ When an offense thus “transcends the realm of human affairs,” the reaction of others is the total exclusion of the one who committed it.

We have seen that punishment, no less than forgiveness, is a way of accepting the criminal. The one who cannot be forgiven or punished cannot be accepted either, hence his exclusion, hence his radical otherness. This radical other is not incomprehensible, like a native of a foreign culture, even though his deed may be so. He is also not conceived *a priori* as different and inferior, like a Black or an Indian, a Jew or a Gentile may be conceived in various forms of racism, both ancient and recent. He is radically different because he is radically bad. His radical alterity is constituted by radical evil that marks his deeds. He is not reified as an object, his subjectivity is not denied; on the contrary, his is a subjectivity driven to its utmost extreme.

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This may take two different, seemingly opposing forms (and we already see here the widening gap between Kant and Arendt): the first corresponds to a strict Kantian notion of radical evil – an outburst of violent yet thoughtful free choice that respects no law; the second fits the evildoer as a thoughtless cog in the machine of banal evil – a docile subject who fully submits himself to the authority of the totalitarian state and internalizes its laws. And yet in both cases radical otherness does not simply grow out of one’s awful deed (and certainly not out of one’s social identity, nature or character). Others, that is “us,” must still recognize the evildoer’s deed as a case of radical evil. Because “we” recognize the other’s subjectivity, either in the form of sheer freedom that rejects the moral law or in the form of complete submission to the systematic negation of the law, we confer upon him radical otherness by denying him both forgiveness and punishment. To make the other radically other is the responsibility of the “same,” of “us,” of all those who base their identity on their participation in a shared – imaginary or concrete, it does not matter – public realm.

This responsibility creates a crucial difference between a secularized polity and a religious community. The community of Christian believers, according to Arendt’s interpretation of a few passages from the New Testament, leaves this task to God; but even they cannot refrain from marking on earth those for whom divine

wrath awaits in Heaven.³¹ In distinction, one may add, Jewish religious discourse explicitly associates the radical other with divine intervention in human affairs *in history*, in this world.³² These two different religious conceptions of divine intervention nonetheless share a similar attitude to radical otherness: they both associate it with evil of an extreme kind and they both defer radical “othering” to divine authority. In a secularized political community, on the other hand, “othering” is a human affair, it is enacted within the public realm on the basis of its inner logic and structural elements.

However, for both a religious and a secularized political community radical evil constitutes a moment of transcendence, either of the public realm or of the earthly human world altogether; it marks a boundary where two violent, external powers meet and overshadow the realm of the community: the radical other on the one hand, and the authority – political or divine – which enacts, represents and enforces the law – divine, moral or political – on the other hand. Punishment has no public function at this point, it has nothing to do with the actors in a public realm or with the citizens of a civil society; it is a violent relation between a violent authority and the radical other whose ties with a human community have been severed beyond repair. In fact, it is the same kind of violence necessary for the very establishment of a shared, common space, of a public sphere of any kind; it is the violence associated with the foundation of the law – any law – and with the separation between those who accept its authority and those who refuse to recognize its legitimacy or are not even asked to grant it. It is a kind of violence that transcends justice, that lies beyond the just and the unjust, for it is justice’s very possibility.³³ And when the radically other is brought to justice, his trial and punishment are a reenactment of the foundation of the law. The medieval sovereign enacted such a display of power in every judgment, or at least whenever the spectacle at the scaffold was involved, for the relation between the sovereign and his subject was always a matter of radical alterity.³⁴ But in the modern state, where sovereignty is associated with the people, not with the person of the monarch, and at the same time is separated from any concrete political institution which is said to represent it, such clashes of extremes

are quite rare – hence their spectacular nature and exemplary status.

The judges at the Nuremberg trials were quite aware of the violent foundation of their authority. Theirs, they acknowledged, was “the justice of the victors.”³⁵ Justice is always that of the victors. The judges in Jerusalem relied in this matter on the precedent set in Nuremberg. They only supplemented it with the special Jewish case.³⁶ The trial in Jerusalem enacted the part – separate, unique but still a part – of the Jewish State in the legal order recently re-founded at Nuremberg. Arendt said that the Israelis did not trust anyone else to deal with the Jewish aspect of the Nazi crimes and that this was the main reason for their objection to an international tribunal for Eichmann.³⁷ This was true, of course, but she missed the other aspect of the trial: the radical other was brought to justice by the Israeli authorities for committing radical evil, and there had never been a better, more spectacular opportunity for a reenactment of the foundation of an Israeli – that is, both Jewish and sovereign – legal system.³⁸ Eichmann’s kidnapping in Argentina, the violation of another nation’s sovereignty, and the secretive mechanism of violence which was exposed and signaled, all these symbols of state power and its immanent violence were necessary elements in the show in which the sovereignty of the Jews as a legal authority was displayed. (It was partly because these elements and others were missing from the Demjanjuk trial over twenty-five years later that it became such a farce.)

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And yet violence never suffices to establish the legitimacy of authority. The punishing authority – whether it is the original authority that has founded the law or one that has been authorized by it – still needs the memory of the community in order to function as a *political* authority. When a relation to the other becomes a relation to a radical other (i.e. to an unpunishable and unforgivable person), everything is haunted by the past. Insisting on the radical alterity of the other, one becomes captive of a past which must be remembered forever so as to block any future relation and to exclude any present relation with the other. One needs the past to let the other stay radically different, but one also needs the other in order to let the past remain unchanged. And one needs a fixed past in order to maintain the sameness of the present, in order to adhere to a fixed identity, to cleave to a solid,

unchangeable “we.” This mentality of a “pitiless stone,” which Sartre understood so well in his essay on anti-Semitism, produces radical otherness and identifies it with evil as a mechanism for stabilizing fleeting identities in the present.³⁹ Indeed, a certain obsession with the past tends to produce radical alterity. There is a kind of unforgetfulness that allows no opening toward the future and no inclusion of a different present; it makes every different present radically other and every future (innovation) radically threatening. The one who is afraid to invent the past is also afraid to initiate new beginnings in the present. The very possibility of action, of action as the immanent plurality of freedom, of freedom being realized always in the plural, of action’s uncertainty and unpredictability, is at risk. The logic of radical alterity belongs to the boundary, to the very edge of the public realm. When it invades the network of interaction, as, according to Sartre, it does in anti-Semitism, it has a paralyzing effect. It acts like an overdose of tranquilizers, like a mechanism of stabilization that has gone out of joint.

6. The Authority and Discourse of the Court

Following Arendt, we have presented punishment and forgiveness as two mechanisms for the stabilization of human interaction and then paused to think about the difference between the two. However, when punishment is institutionalized in a legal system, the difference goes much further than what has been indicated so far. “Justice demands that the accused be prosecuted, defended, and judged, and that all the other questions of seemingly greater import – of ‘how could it happen?’ and ‘why did it happen?’ ... be left in abeyance.”⁴⁰ One such question is the attitude of the victim. Criminal proceedings exceed the realm of forgiveness and forgetfulness. Once in a courtroom, the accused cannot be forgiven. “Criminal proceedings ... are mandatory and thus initiated even if the victim would prefer to forgive and forget.” Quoting the legal theorist Telford Taylor she adds: “a crime is not committed only against the victim but primarily against the community whose law is violated.”⁴¹ From the point of view of the authority that represents it, such a community is an entity defined by the laws that constitute it, perhaps by its narrative too, but in

any case, it is something to be ruled, protected and governed as a united, unified ensemble. It is One. Authority is a mechanism of unification; it endows the many with the identity of the One – be it Nation, State, Kingdom or Empire; at the same time it erases the singularity of each individual among the many and ignores the plurality of individuals who come together. In the name of its projected unity, or even of the necessity to protect the very possibility of the plurality of freedom, authority is violent toward both singularity and plurality. “A murderer is prosecuted,” Arendt says, “because he violated the law of the community, and not because he has deprived the Smith family of its husband, father, and breadwinner.” Note the use of a common, unidentifying name, *Smith*, that erases singularity in the very act of naming it.⁴²

Indeed, one may speak here of a “differend” between two genres of discourse: the discourse – public or private – among actors, in which forgiveness is a legitimate speech act, and the discourse authorized to judge and to punish, in which it is not. The language of forgiveness cannot be heard in the courtroom and cannot be related to the penalty because forgiveness and authorized punishment belong to two different language games. The court does not speak the language of forgiveness, for the latter introduces singularity, generosity and plurality, all of which exceed the capacity of formal legal discourse.⁴³ The discourse of action, in its turn, does not speak the language of authority, for the latter is always ready to replace persuasion with commands and to submit the practice of freedom-in-the-plural to the idea of the One – be it Freedom (in the singular, the Freedom of the One) or the Vocation of a Nation, or any other single Idea. The divorce between these two genres is necessary for the autonomy of the court and its proper functioning as well as for the open-ended and loosely structured network of human interaction. The business of the court is to judge, to convict and sentence, or to acquit. Its language must be as unambiguous as possible, and its acts quite predictable. Any attempt to open the court to the vociferous plurality of the discourse of action poses an immediate threat to the serenity of the judicial game. And vice versa: any attempt to give authority a voice in the discourse of action would ruin the game of freedom-in-the-plural. Punishment and forgiveness are heterogeneous discursive moves. As long as the court sits in

judgment they are mutually exclusive. When punishment turns from a legal speech act ("this court therefore sentences you ...") to the existential predicament of the individual who bears it, forgiveness may be related to punishment, but this is only because punishment has ceased being, strictly speaking, the business of the court.

In court, during the legal process, the author of the crime is unforgivable. But this limit on forgiveness is not set by the nature of the crime but by the discursive framework of judgment. Outside the courtroom, or after the closure of the legal procedure, one may be punished and forgiven, punished and not forgiven, or forgiven and not punished. All three cases mean untying an entangled region in the network of interaction and opening avenues for new beginnings. All three apply to a wrong that does not constitute radical evil. As we have seen, when radical evil is the case, the fourth logical possibility holds: not to punish and not to forgive. Between this possibility and the three others there is a polar opposition. The three former cases mean that the court acts, if it acts, as an authorized mediation between the wrongdoer and the community whose laws have been violated or as a middle ground between individuals in conflict. The latter case means that the court acts as a mechanism of separation and not of mediation. It is as if a late, much delayed and always somewhat strange display of conquest has suddenly come to the fore, for in such a case the court must reaffirm, if not virtually reestablish, the very foundation of its authority vis-à-vis its intolerable, radical other.

We can now resolve one of the questions formulated at the beginning of this paper: can one consistently argue that the crimes of totalitarian regimes are unforgivable and unpunishable and at the same time demand, almost twenty years after the end of the war, that a person like Eichmann be brought to justice? Since the two statements relate to two heterogeneous genres of discourse, one may maintain both without being logically inconsistent, as long as one is careful to distinguish between the two genres. Arendt did not pay any attention to this problem when she wrote *The Human Condition* because at the time, more than a decade after the Nuremberg trials, the legal process as applied to war criminals was simply outside her interest. But in her report on the Eichmann trial she was very careful to make clear the separation

between the legal procedure and the public discourse that may precede, follow or even use it. Her criticism of the prosecution at the trial, as well as her sympathy with the three judges, are partly based on this separation.⁴⁴ It was also partly for this reason that she rejected criticism of the Israeli court for sentencing Eichmann to death. Once he was brought before (an Israeli) court, the latter could not have sentenced him to anything less than death.

And yet, even in court, how can one punish the unforgivable? The only possible answer in this context is to say that the court does not punish the doer of radical evil but eliminates him. The court ignores at this point any attempt to balance deeds from the past or to make possible the future return of the criminal to the public realm. The court in such cases has no interest in the person to be punished, only in his removal from the public sphere. Those who took part in the elimination of entire populations must be eliminated.⁴⁵ The court works here on the edge of radical alterity. It deals with people who have produced such alterity in order to destroy “the other,” thus placing themselves in a position of radical alterity vis-à-vis anyone who can still identify with the victims and oppose their ejection from the human sphere.⁴⁶ The court has no choice but to eliminate anyone associated with that policy of elimination. But it must do so without dwelling for too long in the dangerous zone of the binary logic that dictates: either “we” or “they.” The court must carefully distinguish the very unusual situation that has forced it into a binary relation with the accused from milder cases in which it can offer a middle ground.

Arendt’s sympathy with the three judges in Jerusalem can be interpreted as an appreciation of their genuine effort to do just that. Her criticism of the court may be interpreted as being directed against the court’s failure to make the distinction sharp enough by ignoring too many unprecedented features of the crime and of the criminal, by placing them in a continuum with other atrocities committed against Jews, as if they differed only in magnitude. The District Court of Jerusalem did not make the other’s alterity radical enough. It was torn between the prosecutor’s attempt to portray Eichmann as a monster driven by hatred and anti-Semitism, on the one hand, and its desire to establish a continuity of precedents cultivated by a long legal tradition and the constraints of legal discourse, on the other hand.⁴⁷ While the

desire for precedents only blurred the uniqueness of the crime, the Attorney General missed completely the crucial difference: that it was precisely Eichmann's normal personality and basic moral sensibility, his capacity to recognize evil *under certain circumstances* and sympathize with physical suffering that made the case so unprecedented, so different from any other, so much "other" to the court and to the community it represented.⁴⁸ "This normality was much more terrifying than all the atrocities put together, for it implies ... that this new type of criminal ... commits his crimes under circumstances that make it well-nigh impossible for him to know or to feel that he is doing wrong."⁴⁹

7. The Immoral Imperative

According to Arendt, the court had to ignore the "cog theory" which was used in order to exonerate the criminals of a totalitarian regime. She declares this theory to be "legally pointless" as the court's task is to transform cogs "back into perpetrators."⁵⁰ But this is not entirely true. The cog theory may be pointless when it comes to the ascription of criminal responsibility, but it is crucial when the question is what the court is doing when judging an Eichmann. In order to establish the alterity of the criminal, and hence to play properly its role in the reenactment of the foundation of its own authority, the court had to understand the nature of the crime and the personality of the criminal and therefore needed the discourse, analytic tools and insights of the political philosopher and the social theorist.

This, in part, was what Arendt was trying to provide the Israeli court with in her report on the Eichmann trial. In the book she constantly supplements the proceedings with her own narrative, insights and powerful analysis. She raises objections for the defense and shows how to bypass them; she screens the relevant facts for the prosecution and reformulates its arguments (though she is sympathetic with the judges for letting irrelevant witnesses speak for hours on end); she tries to convince the court to accept most of Eichmann's statements and not to dismiss him as a liar; she generalizes the indictments wherever possible and portrays the universal nature of the crime as "a crime against humanity," even though Jews were the main group of victims and were exterminat-

ed only because they were Jews; and most significantly, she rewrites the verdict for the three judges of the Jerusalem District Court.⁵¹ Her book acts as a supplement to the official “book” of the trial, which itself should have supplemented the struggle of humanity against totalitarian evil, but in fact (and unfortunately, from Arendt’s point of view) supplemented only the struggle of the Jews against their enemies. I will return to this chain of supplements below.

It is in this context, when the insights of the social theorists come to supplement the legal and ideological discourses heard at the court, that the banality of evil comes to the fore. The evil committed by the Nazis (and by the Bolsheviks too) was so extreme and the alterity to which their crimes condemned them was so radical precisely because in the totalitarian regime the production of evil had become so banal. No doubt, the “lesson” of the banality of evil is both part and outcome of Arendt’s attempt to comprehend the uniqueness of totalitarianism.⁵² But in the context of our discussion it has a special theoretical role: it is an account of what is so radically different about the evil – of both deeds and doers – associated with totalitarianism; it is an account of that difference that commands every human being to struggle unto death against the system and agents of that evil. Not the enormity of the crime, its magnitude or horrifying features make the difference, but its normality.⁵³

This account is well known and there is no need to go into its details: Eichmann was not an Iago or a Macbeth and it was simply impossible to “extract [from him] any diabolical or demonic profundity.”⁵⁴ He was a narrow-minded, not very intelligent and not very courageous person who spoke in clichés whenever he could not or did not want to think for himself, which was quite often. He had been raised and had lived all his life as a law-abiding citizen. He could not be blamed for the fact that the law had been monstrously changed, even if he had thoughtlessly approved of this change. It was his docility, his good manners as a civil servant and his habit of following orders very carefully that had made him such an efficient cog, one among so many, in the machinery of evil. The machine was that incredible bureaucratic system – equipped with a surprisingly small amount of gun power and other violent means – in which every man had a niche and

function, and yet every man was replaceable. The production of administrative death, not unlike some of the wars the system had managed, had become part of its normal functioning, as it allocated to each of its cogs a small, bearable portion of the horror.

Totalitarianism drove to the extreme its own negative freedom, the freedom from all restraint, in order to destroy the immanent plurality of freedom. It threatened the very nature of Man: "Suffering, of which there has been always too much on earth, is not the issue, nor is the number of victims. Human nature as such is at stake."⁵⁵ Aside from the elimination of "superfluous" people, Arendt observed in the early 1950s, the totalitarian regime experimented with human nature so as to turn free men and women, capable of action, into docile puppets. Together with freedom, totalitarianism destroyed the very possibility of the moral person. It forced the cooperation of the victims in their annihilation, thus blurring the distinction between perpetrator and victim, and made moral choices virtually impossible by imposing a choice between one kind of murder and another. Even martyrdom had become superfluous.⁵⁶

A decade later, these observations were supplemented by an account of a new kind of docility which had made those various experiments possible to begin with. This was a docility that totalitarianism did not invent but exploited to the limit – the docility of the bureaucrat, of the expert, of the state employee and, above all, of the soldier. All these were features of the routinization and normalization of evil that in the Eichmann book came under the rubric of "banality."

The normality of evil is precisely what connects Arendt's understanding of the banality of evil and her Kantian notion of radical evil. This connection takes place through a total inversion of the relation between the basic elements, both psychological and moral, that constitute Kant's scheme of moral judgment. Arendt did not see this connection when she wrote about a contradiction between her two notions of evil (see p. 91 above), and a certain digression into Kant is necessary in order to present it. Presenting this connection and explicating its moral and political implications would be my own modest supplement to Arendt's analysis.

Kant drew a sharp distinction between emotions and inclinations on the one hand, and moral duty on the other. The only quasi-emotive element he allowed into the strictly defined realm of moral judgment was *respect* for the law, the *moral* law, of course; respect for the law is the only possible motivation for a *moral* act, i.e. it is that which constitutes an act as moral. The law ("imperative") itself is unconditional ("categorical"), but it has no content, only a form – it determines, absolutely and with no reserve, the form of a valid moral judgment, but it has nothing whatsoever to say about the content of judgment. Hence moral judgment is always caught between an unconditional subjection to the law and an undetermined, indeterminable interpretation of what the law says. The moral agent is both subject (*subjectus*) to the moral law alone and has no other master, and a subject (*Subjekt*, i.e. the constitutive origin) of moral interpretations and judgment.

Eichmann, it turned out, had read Kant's *Critique of Practical Reason* and understood its most basic argument. Even though he was blind to the interpretative aspect of the moral subject and assumed only the position of a subject *to* the law, he understood the general form of the law and the duty to pay it unconditional respect. He was even aware of the fact that by joining the machinery of murder he had abandoned his Kantian principles and replaced self-mastery with total submission to the will of another.⁵⁷ Here as elsewhere, Arendt takes him seriously. Not only did he understand at least one form of humanism, namely Kantian ethics, he could even feel guilty and be motivated by a conscience, and there is some evidence that this faculty functioned in him for at least a few weeks in the fall of 1941.⁵⁸ However, due to a mixture of contingent biographical dispositions and historical events, Eichmann found himself holding a key position in the administration of evil that had gradually become the administration of death. The law of the land that this administration embodied, declared and enforced was, from a Kantian perspective, a willed radical evil. And at this point the entire Kantian scheme was inverted, without however being dismantled.

In a modern civilized society the law presupposes a certain form of morality, which, even if it is not a strictly Kantian one, is certainly based on universalizable principles. In a totalitarian

regime it is the very negation of such a morality, i.e. radical evil, that is presupposed by the law:

And just as the law in civilized countries assumes that the voice of conscience tells everybody "Thou shalt not kill," even though man's natural desires and inclinations may at times be murderous, so the law of Hitler's land demanded that the voice of conscience tell everybody: "Thou shalt kill," although the organizers of the massacres knew full well that murder is against the normal desires and inclinations of most people. Evil in the Third Reich had lost ... the quality of temptation.⁵⁹

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Duty and inclination still oppose each other, the law must still be internalized as an inner voice, respect for the law and the organ of conscience still have a crucial function,⁶⁰ only temptation has reversed its direction and is now attached to the good or the just. One is not tempted to do evil despite one's moral duty *and* the law of one's land, but rather one is tempted to violate or disobey the law of the land and follow one's (degenerated, the Nazis would have said) moral sentiment. The categorical imperative (or any other form of a humanist moral law) has shrunk into a mere turbulence of emotions. Too many Germans, however, "had learned how to resist [this kind of] temptation,"⁶¹ but it was no easy task, especially for those directly "exposed" to the horrors – "exposed" because they were those who produced them. Arendt mentions Himmler's famous speech to the intelligent, well-educated officers of the *Einsatzgruppen*, who had to overcome their "animal pity by which all normal men are affected in the presence of physical suffering. The trick used by Himmler – who apparently was rather strongly afflicted with these instinctive reactions himself – was ... [to turn] these instincts around, as it were, in directing them toward the self."⁶² The horrible things became what one saw, not what one did, suffering was the lot of those who witnessed the suffering of others, pity turned into self-pity for having to fulfill a duty with which such suffering was involved. But the opposition between duty and inclination, between rational action and emotional reaction, and between the rigidity of an unconditional

law to be internalized and the fragility of human nature to be overcome, all this remained unaltered.

Of course, reason is no longer a sovereign master, and freedom has been replaced with total subjugation to another. More importantly, perhaps, the opposition, which in Kant splits the individual's self (or soul), now separates the individual from the State (or the Party, or any other imaginary unified collective) to which, at one and the same time, he entirely belongs and yet is entirely opposed. However important these differences are, they do not change the *form* of (im)moral judgment. In both cases judgment is shaped by an unconditional law, which one ought to respect no matter what, overcoming whatever one feels inclined to do. Only now the law has become the word of the Führer: "The command of the Führer is the absolute center of the present legal order," Arendt quotes the Nazi jurist Theodor Maunz.⁶³ The Führer's word was the law, though hardly ever a written one, its validity "was not limited in time and space," as was the case with mere orders. Hitler's word of mouth was sacred; writing was reserved for the much inferior and secondary interpretations.⁶⁴ But the need to interpret is no less urgent and no more determinable than in Kantian moral judgment. Eichmann, who often acted "against his 'inclinations,'" according to his own testimony at least, was torn more than once between conflicting interpretations of the Führer's word.⁶⁵ On some occasions he even disobeyed his superiors, whom he thought disloyal or at least wrong in their understanding of the orders given.⁶⁶ The orders given to the elite, Arendt noted in *The Origins of Totalitarianism*, were "intentionally vague"; the recipient was meant to recognize "the intent of the order giver and act accordingly" and to decipher "the will of the leadership" out of the vague wording of the order, knowing that "certain hints meant more than their mere verbal contents."⁶⁷

The famous "black flag" which is supposed to "fly above" criminal orders which are "manifestly unlawful"⁶⁸ was now raised above unfaithful interpretations. In general, from the totalitarian point of view, betrayal had become the chief kind of "evil." A regime that demands unconditional obedience to the law of the land (of the State, the Party or the Führer) is capable of turning every gesture into a possible sign of contemplated or actual disobedience. The Jerusalem Court should not have been sur-

prised that Eichmann hardly ever paid any attention to what the court considered a “black flag”, i.e. the flag rising above willed violation of the moral law, for there was no such flag available in the entire Third Reich, certainly not in Eichmann’s surroundings.⁶⁹ When (Kantian, or any other humanist) morality is reduced to and enclosed in the realm of inclinations, as under the Nazis, only the law can distinguish right from wrong. All Nazi crimes took place within the legal order. There was a reversal of the relation between exception and the rule: crime had become the rule; yielding to the temptation to disobey the rule was the exception. Eichmann “acted in accordance with the rule, examined the order issued to him for its manifest ‘legality,’ namely regularity.”⁷⁰ He could not have used the principle of “a manifestly unlawful order” for his orders were not manifestly unlawful. They were even more than lawful – they were (or were presented to him as) the realization and epitome of the *raison d'être* of the state that made things lawful in the first place. The “normal” Nazi criminal, Eichmann included, intended to do what he did, and he knew that what he did was awfully wrong from an “ordinary” moral point of view, but he did not do what he did *in order to do wrong*. He rather strove to do the right thing – that which was dictated to him by the Führer’s order.

8. Oppositions

Radical evil is the evil which a totalitarian regime presupposes and makes into its rule. It is *the making of radical evil into a rule*, subjecting it to a law one must respect, that constitutes the banality of evil.⁷¹ The latter refers to the system as a whole, to the system that produces law-abiding “citizens” whose law is the violation of the moral imperative. In the kingdom of banal evil, normal “citizens” commit radical evil as a routine without being driven by awful desires, without being guided by the intention to do wrong, and without the gratification of pleasure.⁷² In the kingdom of banal evil expressions of moral sentiment are unlawful deviations, moral sentiments arouse temptations which one learns to suppress, or, failing to do so, one acts illegally and is exposed to severe punishment, to the danger of death.

The banality of evil does not make radical evil less radical, awful or abominable. It rather means the legalization, bureaucratization and systematization of radical evil. The inversion of the Kantian scheme in the totalitarian regime takes place through its radical “politicization” (that leaves no space for politics) and the displacement of the scheme’s main structural elements from the individual moral subject to the one and only political subject, the State, the Führer or the Party. But note that the Kantian scheme of moral judgment has played here only a mediating role. The alternative to a totalitarian regime cannot be a society guided by Kantian morality for two complementary reasons: the logic of totalitarianism is too much embedded in the conceptual structure (even though inverted) of Kantian moral judgment; and the Kantian point of view is blind to the dramatic inversion which the Kantian scheme of moral judgment undergoes in a totalitarian regime. In other words, the inversion of the Kantian scheme in totalitarianism posits Kantian morality and totalitarian legality as binary opposition in the strict logical sense. The very existence of such an opposition presupposes a shared conceptual structure which separates the two poles yet supplies them with a common ground.

This antithetical positioning of the two poles is only one step away from a Hegelian *aufhebung* that would mediate, sublate, negate yet preserve and ultimately reconcile the opposition within and through a more encompassing structure. But this is precisely what cannot be allowed with totalitarianism. With totalitarianism there should be no common ground, neither negotiation nor reconciliation; Auschwitz has no *aufhebung*.⁷³ A viable *political* opposition to totalitarianism must be straightforward logical negation, guided by the law of the excluded middle, by a strict “either-or” reasoning. Hence various forms of Kantian morality must be ruled out from the outset.

The radical alternative to totalitarianism that Arendt proposes is not based on Kantian morality but rather on the political society whose quasi-nostalgic, quasi-utopian outlines she described in *The Human Condition*. In the public realm of such a society the Kantian dichotomies are overcome. In the network of human interactions, where knots of self-presentation, power relations, competition and solidarity are constantly woven and unwoven, the separation between duty and inclination, form and content is untenable.

Ultimately, it is the Kantian separation between the inner realm of morality (intentions, conscience, good will, etc.) and the external realm of politics that is surpassed there.

It is in this context, I believe, that one can explain and to some extent even justify Arendt's claim that conscience and love are politically irrelevant.⁷⁴ In the presence of others, in the light of a public sphere, love is replaced by respect⁷⁵ and the inner life of conscience is constantly examined through one's speech and action with and before others. Politics, for Arendt, is an ongoing work of externalization-internalization of a plurality of selves that simultaneously display (the inner brought out) and cultivate (the external brought in) themselves in speech and action. Everything hidden must emerge into the light, be exposed to the gaze and stand the judgment of others; everything overt is laid out there ready to be grasped, incorporated, used and abused by others, who may seize it, continue or abandon it, approve or disapprove, remember or forget it. Arendt's utopian politics does not incarnate Kantian morality and does not consist of a plurality of good wills, but of a plurality of wills-in-action, which may be more or less good, as the case may be.⁷⁶ Only they would hardly allow a will to radical evil an entry into the network and they would never allow it to find or found there an institutional niche.

Hence the real *political* opposition is not between a bureaucratic form of radical evil and a Kantian scheme of moral judgment, but between two political forms that negate the premises of Kant's moral theory. This opposition lies between two ideal types, two political forms of society (even though the first was realized historically in two concrete societies and the latter is only imaginary). In Arendt's imagined public realm freedom is realized in the plural whereas in totalitarianism it is annihilated by the One. In the society that makes possible Arendt's public realm, openness and visibility are closely associated with power and action; the public realm is strictly distinguished from other spheres of social life, and power is separated from violence; freedom is exercised in the plural, in the light of an open public space, and realized in a network of interactions; occasional wrongs meet occasional forgiveness and punishment without causing the permanent exclusion of the wrongdoer from the public realm; willed evil is exceptional and it is the only cause for exclusion or elimination of

an individual by a public authority. In the totalitarian regime there is neither a public nor a private realm; everything belongs to the One, yet to no one in particular; violence is the main medium of power and it extinguishes the plurality of freedom wherever it faces the slightest sign of such a plurality; every (legal) wrong is a betrayal of the One, in the name of which wrongs are systematically committed; exclusion of the unfaithful element is a form of interiorization and control of everything – human beings, their bodies and minds, material resources, ideas, and memories; and finally, administrative evil is the rule, the agenda, the ongoing project, the ultimate goal – to resist it is the rare exception. It is clear now that evil could be both banal and radical and that the only moral response toward such radical and banal evil, when one is capable of responding, must be its systematic eradication.

Totalitarianism is a political form which is still governed by the dualistic structure of an inverted scheme of Kantian morality; Arendt's is a utopian political form in which this dualism has been completely surpassed. The inverted persistence of Kantian dualism in totalitarianism and its straightforward dismissal in Arendt's utopia touch upon the core of these two political forms.

The totalitarian regime presupposes in one way or another an inverted Kantian dualism. The terror of the state cannot function without the constant suspicion of a discrepancy between one's inner intentions, faithfulness and loyalty on the one hand, and one's overt behavior, speech and action on the other. It requires an unconditional acceptance of authority, which is always transcendent yet everywhere half-present, through the infinite eyes and ears and guns of the Führer, the Father or the Big Brother. The split between the One and only Subject *of* this authority and the many who are subjects *to* it is as deep and as constitutive as the split between the universal, unified system of reason and the many conflicting inclinations that should become subject to its rule. It is quite depressing to realize that the logic of totalitarianism and the logic of Kantian morality are two branches of the same tree, the tree of modernity. The latter cannot become a viable political opposition to the former.⁷⁷

In Arendt's utopian politics, on the other hand, the realization of freedom-in-the-plural means the existence of an open “space of appearance”; freedom would collapse, or at least be severely

restricted, if the hiatus between the inner realm of the soul and its overt, contingent expressions were reintroduced into the public realm. When this happens, the will may still be free but action is again subject to the rule of a hidden master from within (be it desire or reason) and to the manipulation of a transcendent master from without, a certain capitalized Other. If an unconditional authority is once again declared and represented in this space, plurality would be immediately sucked into the deep womb of a new One, whose very emergence would split the network of interactions between the One and the Many.⁷⁸

Kant sharply separated the moral from the political. For Arendt, the public realm, the political in the full sense of this term, constitutes the stage for moral judgments and actions. Her insights about forgiveness and promise, which we have interpreted as mechanisms for stabilizing the network of human interaction, may now acquire their full meaning. Forgiveness relieves the burden of moral judgment in the sphere of human action without relegating morality to an inner, separate sphere. Promise relieves the anxiety of the new and unpredictable associated with action, turns the presence of others in the network into a moral guide and makes self-identity possible. This guide, we may note here in passing, is not simply a respect for the law that commands one to respect one's promise, but respect for the other, who relies and may depend upon this promise.⁷⁹ Forgiveness and promise substitute for the rejected distinction between the moral and the political in that they make possible the coexistence of judgment and action in "the space of appearance," in the same public sphere. They thus enable the introduction of a "moral code," a "set of guiding principles," into the very structure of the political sphere that would not subject freedom-in-the-plural to the rule of any One and would not turn politics into a *techne*.⁸⁰ The logic of forgiveness and promise allows Arendt to articulate a moral code that has a "role in politics" out of the very condition of the political sphere. She relates this code to experience not to reason, as well as to concrete others, and not to a universalized and idealized subject. The role visibility plays in this "moral code" cannot leave moral judgment to the inner realm of intentions, conscience and will or to the transcendental realm of reason. Arendt's vision of moral politics and Kant's separation between the moral and the political do not

belong to the same tree of modernity.⁸¹ The political form outlined through her discourse is incompatible with any political form that still inheres to the basic structure of the Kantian scheme. It is for this reason that the former may become a viable *political opposition* to totalitarianism.

Finally, it is important to note that evil is not one of the binary terms of which this “viable” opposition consists (unlike a series of other binary opposites, e.g. visibility vs. opacity; openness vs. secrecy; plurality vs. the One; freedom vs. slavery; moderate exclusions vs. total inclusion; strict separation among social spheres vs. the colonization of every sphere by the state; etc.). While the totalitarian regime is an extremely systematic realization of radical evil, Arendt’s political society and public realm do not guarantee the good. The realization of radical evil is a historical fact, the best regime that opposes totalitarianism is a utopian dream, and the good is an idea that transcends even this utopia and represents that which is totally absent. Politics cannot realize the good, nor even approach it gradually, and even the best regime cannot eradicate radical evil, but only prevent its systematic production and administrative, routine dissemination. Totalitarianism sets the moral yardstick with which one can measure different political forms of society. The cardinal question is how a political form copes with those structural elements that might contribute to the administrative production and dissemination of evil, in other words, how well a political form identifies those elements when they first emerge; how tolerant it is toward them when they start to conglomerate into new threatening constellations; how efficient, clever and courageous it is when it finally comes to outright confrontation.

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9. Struggle unto Death

Eichmann’s trial was for Arendt one such confrontation, and, if this yardstick is employed, the moral grade of the Israeli regime turned out to be fairly mediocre. Like the Nuremberg trials, and yet much more focused on the question of totalitarian evil, the trial set the stage for a possible international confrontation with totalitarianism which all free countries should share. Arendt stressed the fact that the trial opened the way to many more

indictments against former Nazi officials in various courts in the West and brought to the awareness of the public in the free countries the scandal of the ongoing presence of former Nazis in the midst of their civil societies.⁸² But these were secondary, quite contingent consequences, beyond the control of the Israeli government. Her main criticism of the Israeli government was for its failure to realize the potential of the trial for reaching a better understanding of the unique nature of totalitarianism and its evil-producing mechanism. In her eyes, Eichmann's trial "resembled the post-war trials ... in all formerly Nazi-occupied countries" and remained a local event, which meant in this context that it did not allow for a confrontation between totalitarianism and its rivals but merely for a clash between the kin of the victims, aligned with the victorious party, and their vanquished enemy.⁸³ In Arendt's eyes, the trial in Jerusalem reiterated the "barbaric" proposition, which she adamantly rejects, "that a great crime offends nature, so that the very earth cries out for vengeance"; such propositions "were, in fact, the supreme justification for the death penalty."⁸⁴

When Arendt comes to her own justification of the death penalty, it is not vengeance or the enormity of the crime that concerns her but the nature of the confrontation with totalitarianism, which Eichmann still represented. Eichmann was for Arendt an incarnation of the awful link between the radical nature of totalitarian evil and its outrageous banality, a link he continued to embody and express throughout the trial, in his statements, his clichés, his line of defense, his lack of understanding of the indictment and of the nature of the event in which he was involved, and last but not least, in his explicitly inverted Kantianism. And it was only because Eichmann had and still represented totalitarianism for Arendt that she thought he must be hanged – the confrontation with totalitarianism could not end in any other way. The ongoing presence of totalitarianism in the figure of Eichmann was the only thing that could distinguish his execution from an expression of "barbaric" vengeance. Arendt's last words in the verdict she composed to supplement the judges' verdict should be interpreted in this light:

... you have carried out, and therefore actively supported, a policy of mass murder. For politics is not like the nursery; in politics obedience and support are the same.

And just as you supported and carried out a policy of not wanting to share the earth with the Jewish people and the people of a number of other nations ... we find that no one, that is no member of the human race, can be expected to want to share the earth with you. This is the reason, and the only reason, you must hang.⁸⁵

This is not the vengeance of victims against their former persecutors. What Arendt calls “the only reason” for the death penalty is rather the very logic of totalitarianism which Eichmann represented (or was made by her to represent); it is totalitarianism’s deadly dualism, its drive to encompass everything (“the earth”) in order to eliminate the unfaithful part of the whole, which she identifies and extracts here.⁸⁶ The binary logic of the totalitarian regime leaves no other choice but to eliminate those who took part in it and still represent it. To negate totalitarianism means to fight it unto death. So awful is the power of this logic that it must invade the courtroom and impose itself on the court’s legal discourse simply because the court was facing a representation and embodiment of totalitarianism and regardless of the fact that the totalitarian regime had long since been defeated (even the USSR was not considered by Arendt totalitarian at the time of the trial). Arendt never really quarreled with the decision of the Israeli authorities to kidnap Eichmann, although she ridiculed their attempt to justify it under existing international law and would have preferred to have the Nazi brought to justice before an international tribunal – and then executed, regardless of technical, diplomatic or legal obstacles. Eichmann, who at that time was a poor worker in a wretched neighborhood of Buenos Aires, had to be executed simply because he was there, because his identity and whereabouts had been revealed, because “no member of the human race can be expected to want to share the earth” with him.

Arendt disregarded all kinds of legal and moral arguments that could have justified the death penalty. Perhaps she did not think they were adequate to the complicated case in which a man had been brought to justice in a country which was not his own and whose laws he had never violated, and was sentenced to death by a court that had never been authorized to do so by his victims. But it is more plausible that she preferred her own kind of argument

because it seemed the only one that fitted her view of the trial as an opportunity for a confrontation – both intellectual and political – with totalitarianism.⁸⁷ The mere *presence* of an Eichmann set in motion the whole machinery of the struggle unto death against totalitarianism. Yet the machinery was mainly discursive; Eichmann's presence was so effective because it was a *re-presentation*: the struggle against totalitarianism was confined to a stage set by a civil court in which totalitarian evil was represented through the stories told by dozens of eyewitnesses, and all this was done in an orchestrated show, one of whose clear intended purposes was to supplement the real Jewish struggle that had been so meager when it had been so urgently needed. I argued above that Arendt presented her *Report on the Banality of Evil* as a supplement to the official "book" written at the Jerusalem District Court because she thought that the trial, which should have supplemented the struggle of humanity against totalitarian evil, had instead supplemented only the struggle of the Jews against their enemies. This whole chain of supplements, together with Arendt's justification of the death penalty, rests on a problematic, implicit "logic of the supplement": supplements can represent because they substitute for that which is represented, and at the same time substitutes can represent because they supplement the absence of the represented object. A supplement is called for because that which has to be represented cannot be made present, its arrival is deferred or suspended; and yet, unlike an eternally deferred Signified (a text's ultimate or final Meaning, God, a true intention, the spirit of the Law), its arrival is only temporarily postponed. At the same time, the presence of the supplement does not simply replace *for* the meantime – *in* the meantime, while replacing, it also complements that which it represents. The representing element supplements the represented not only because the latter is missing here and now, but also because of *what* it misses, its missing qualities.⁸⁸

We can see this logic at work throughout the series of supplements mentioned above: the missing understanding of and direct confrontation with totalitarianism at the court, and Arendt's report as a supplement to both; the missing Jewish struggle against the Nazis, and the trial as its supplement. The same must go for Eichmann as well: there is something missing *about* totalitarianism (and not only its deferred threatening arrival) that Eichmann must

have supplemented, for Arendt. This was, I think, the articulation of totalitarianism's inverted Kantian element.

It was certainly a private supplement as far as Arendt's own understanding of totalitarianism was concerned (in her major work on totalitarianism she had not considered this Kantian aspect, whereas in her later work on Kant she tried to salvage a Kantian concept of the political that would escape the strictures of Kantian morality).⁸⁹ More substantially, however, the text on Eichmann supplemented Arendt's understanding of the "origins" of totalitarianism and brought the understanding of that political form of society to its completion. In her *Origins* Arendt presented a kind of loosely constructed genealogy of totalitarianism and related it to imperialism and anti-Semitism (without however implying a deterministic or a teleological relation between the former and the latter). But imperialism and anti-Semitism could still be conceived as aberrations of the modern mind and of modern societies, as two kinds of social pathologies. Now, through the Eichmann trial, and through making Eichmann a substitute for totalitarianism, it was possible to present a direct relation (yet again, neither deterministic nor teleological) between totalitarianism and one of modernity's most characteristic and most highly evaluated achievements, namely Kantian morality. But most important, I think, is that the way Eichmann was made to *represent* totalitarianism was a necessary supplement to the very *presence* of totalitarianism almost two decades after the war as a regime to be faced in a struggle unto death. For what the report reveals through its various supplements to the proceedings of the trial was the limits and limitedness of a variety of Kantian oppositions to totalitarianism and how urgent it was to replace and supplement them with a viable political opposition. This is the kind of intellectual-political opposition which Arendt envisioned and of which she outlined many sketches, but which she never brought to completion. And in this sense the report is but a substitute for a political theory which must still be supplemented.⁹⁰

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Can all this be a reason to hang a man, even if his name was Eichmann? There may have been very good reasons to hang the Nazi, even if one rules out revenge, but not this one. Arendt ignored the role that her own discourse, and particularly her book, played in making Eichmann into the representing-supplementing

element he was. She was not aware of the fact that she did not simply object to or criticize the Israeli court in her text, but joined it and the entire Israeli ideological apparatus (which she so powerfully stripped of its masks) in the production of Eichmann as a substitute for and a supplement to totalitarianism.⁹¹ However, by the time of the trial Eichmann was not really a supplement to anything. He was neither an embodiment nor an extension of totalitarianism, only his discourse was, to a certain extent, one of its reminiscences, and this too was mainly due to Arendt's brilliant reading of his written and spoken texts. Together with the Israeli authorities, Arendt supplemented the missing link between Eichmann's active role in the death administration of the Third Reich and the current state of the struggle unto death against the epitome of evil (totalitarianism, for Arendt; 2,000 years of Gentile persecution culminating in the Holocaust, for the Israelis).

Arendt's legal reasoning cracks when it finally comes to the justification of the death penalty. For the accused in a legal procedure, unlike in many other forms of discourse, must not be judged for what he represents, certainly not for what he substitutes for or even supplements, but for what he did. Arendt knew this full well: "We are concerned here only with what you did, and not with the possible noncriminal nature of your inner life and of your motives and with the criminal potentialities of those around you," she writes in her verdict.⁹² But a few lines later, summing up what exactly Eichmann *did* that should have sent him to the gallows, she switches registers: there still remains the fact that "you have *carried out, and therefore actively supported*, a policy of mass murder...." *Carrying out* a policy of mass murder should have been enough for any decent court. But it is the active support which really interests Arendt. She needs this active support not only in order to get rid of the "cog theory" but also in order to be able to charge Eichmann with the crucial act: "not wanting to share the earth" with others. She is even willing to supply the Third Reich with a political space for a moment, in order to bridge the distance between carrying out the policy and actively supporting it: "*in politics* obedience and support are the same."⁹³ Only a certain form of political discourse can transform Eichmann's obedient, willful participation in the administration of death into a position from

which he could consciously support the principle of “not wanting to share the earth” with the Jews or some other particular group.

There is no evidence that Eichmann ever articulated or even contemplated such a principle. Everything Arendt taught us about the machinery of evil in the totalitarian regime indicates that he need not endorse such a principle in order to become a fully responsible participant in that machinery. The court too does not need it, for such an endorsement is already superfluous from the point of view of legal discourse. It is Arendt who needs to articulate this principle in this context in order to make Eichmann a representation – both substitute and supplement – of totalitarian deadly, binary logic and of the imperative to confront it wherever one can and fight it unto death. Arendt has simply passed unnoticed from reflection upon totalitarianism, which, at the time of the trial at least, was a matter of historical analysis and contemplation of past events, to direct, oppositional confrontation with totalitarianism, which is always a matter of the present state of political affairs and of totalitarianism’s threatening presence.

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It is time for us to supplement Arendt’s report with a clear distinction between these two lines of reasoning. In scattered passages in the book, and in other minor essays, Arendt mainly stressed the either-or logic of totalitarian destruction that forces any viable opposition to adopt a policy of total negation. But in her seminal work on the subject, *The Origins of Totalitarianism*, and in some other parts of *Eichmann in Jerusalem*, she pointed out several lines of continuity that undermine any attempt to impose such a binary opposition. Indeed, in the broader context of her work Arendt constructed a continuity with this alterity, which has two forms. The first is a genealogy of practices of domination and exclusion. The second is a continuum of discrete political forms, a slippery slope that descends (somewhat like the series of political forms Plato portrays in the Eighth Book of his *Politeia*) from the utopian republican polity she had in mind to liberal democracy, then to authoritarian regimes and dictatorships, to totalitarian movements, and finally to the totalitarian regime. The radical alterity of this regime and the binary opposition it imposes takes place on one level, both concrete and urgent – that of a sphere of action thoroughly mobilized in a struggle for its very existence. The continuity between totalitarianism and other political forms

takes place on another level, that of historical reflection and political analysis.

The very presence of totalitarianism on the horizon of one's sphere of action means struggle unto death. But in the absence of a fully developed totalitarian regime, as was the case at the time of the trial, all one has is a variety of political forms and practices of domination that contain, in different modes and degrees, various practices and structural elements of which a totalitarian regime consists: bureaucracy; a manipulated mob; masses deprived of access to the public sphere; an impoverished public sphere; an exclusionist ideology that embodies binary logic, dehumanizes the other, etc. In such circumstances (and these are our present circumstances as well), the struggle against totalitarianism must rely quite heavily on a political discourse informed by historical-social analysis, and it involves a whole economy of representations, supplements, postponements, decipherment and redeployment of signs. This kind of economy must be exposed to the gaze of others and be submitted to their judgment in the light of an open public space. It is always at stake in the political not the legal sphere, and it must be kept outside the courtroom, for in the discourse of the latter responsibility and indictment presuppose the identity of the doer and a very different continuum between the doer, the deed and its consequences. This continuum cannot hinge on supplements and cannot accept postponements.

The radical alterity of the other which totalitarianism imposed is never given but must always be produced anew by the forces of radical-banal evil, as well as by the forces of those whose fate was – or had been, or could have been – to fight against the machinery of evil. The real, “final” defeat of totalitarianism would be when this kind of logic could find no human institution in which it could be embodied. Ironically, Arendt’s *justification* of Eichmann’s execution by the Jewish State in terms of this binary logic was still a minor occasion of such an embodiment.⁹⁴ Arendt’s *explanation* of Eichmann’s participation in the execution of the Jews penetrates the mechanism that fabricated radical alterity and made binary logic a means in the administration of mass murder. It is to this explanation, not to that justification, that we should still hold today, for the parts of the machinery of totalitarian evil are scattered all around us. “Totalitarian solutions may well survive the

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fall of totalitarian regimes....”⁹⁵ Indeed, they have survived, even in the State of the survivors.

Notes

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- 1 Hannah Arendt, "Totalitarianism," pt. 3 of *The Origins of Totalitarianism* (1951; New York, 1968), 157. Arendt invokes explicitly Kant's famous discussion of radical evil in *Religion within the Limits of Reason Alone* (New York, 1960). She praises him for being one of those rare philosophers who admitted the worldly existence of radical evil but criticized him for raising the problem only in order to quickly rationalize it away. Cf. Hannah Arendt, *The Human Condition* (Chicago, 1958), chap. 33.
- 2 Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York, 1963).
- 3 *The Human Condition*, 241.
- 4 Kant, *Religion*, bk. 1, pp. 15–39.
- 5 *The Human Condition*, 240.
- 6 *Ibid.*, 241.
- 7 *Eichmann in Jerusalem*, 277–79.
- 8 Letter to Mary McCarthy, 20 Sept. 1963, cited in a special dossier on Arendt in *Magazine Littéraire*, Nov. 1995, 54.
- 9 There is a debate among some Arendt scholars about whether to read her theory of action in the context of her experience with and account of totalitarianism, or vice versa, i.e. to understand the latter in the context of the former. Margaret Canovan takes the first route in *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge, 1992); George Kateb, *Hannah Arendt: Politics, Conscience, Evil* (Totowa, NJ, 1984), is said to represent the second. Indeed, there is a clear difference between *The Human Condition*, where her theory of action makes its principal appearance, and her earlier and later writings on totalitarianism, especially *The Origins of Totalitarianism* and *Eichmann in Jerusalem*, not only in content, but in style of writing and strategy of argumentation as well. But neither this difference nor the biographical evidence that shows the shadow of totalitarianism to be Arendt's formative political experience can justify the privilege Canovan and others claim for the political-historical narrative over the political-philosophical analysis. Each of these two main directions in Arendt's work can throw light on the other, or problematize the other, and be read anew in its light.

- 10 Heidegger, however, is not mentioned even once in *The Human Condition*.
- 11 "To link is necessary, but how to link is not," says Lyotard about phrases. But this phrase may be easily linked and applied to Arendt's theory of action. Jean-François Lyotard, *The Differend: Phrases in Dispute*, trans. Georges Van Den Abbeele, (Minneapolis, 1988), no. 102.
- 12 The expression is Claude Lefort's, *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism* (Cambridge, 1986).
- 13 In this sense, Arendt anticipates Foucault's critique of modernity and his emphasis on disciplinary sites, processes of normalization and the continuity of the "carceral society" from the prisons of the democratic state to the concentration camp and the Gulag. See especially Michel Foucault, *Discipline and Punish: The Birth of the Modern Prison*, trans. Allan Sheridan (New York, 1979). For more about this continuity see p. 125 below.
- 14 The distinction between historical narrative and phenomenological analysis in Arendt's writing is drawn (but with a different emphasis) from Seyla Benhabib, "Models of Public Space: Hannah Arendt, the Liberal Tradition, and Jürgen Habermas," in Craig Calhoun, ed., *Habermas and the Public Sphere* (Cambridge, MA., 1992), 73–98.
- 15 See *The Human Condition*, chaps. 7–9, 28–29. I cannot develop this point further here. One may find a few relevant insights on visibility, freedom and the public sphere in Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, MA, 1989), chaps. 3, 7 and 9. See also Ariella Azoulay, "Training for Art: A Critique of Museal Economy" (Ph.D diss., Tel Aviv University 1996), chap. 3; Adi Ophir, "Civil Society in a Postmodern City" (unpublished manuscript).
- 16 *The Human Condition*, 241.
- 17 Ibid., 237. I have borrowed the metaphors of tie, knot and entanglement in the network from Jean-Luc Nancy, to whom I am indebted here and throughout this section. See especially, *Le sens du monde* (Paris, 1992), "Politics II." The clue, however, could be found in Arendt as well. See her interpretation, inspired by Montesquieu, of the origin of Roman *lex* (law) as relationship, connection, *rappoport*, in *On Revolution* (1963; Harmondsworth, 1973), 188.
- 18 *Eichmann in Jerusalem*, 252.
- 19 Arendt, who makes Eichmann a man of clichés, might have missed this point. Eichmann made promises till the last moment because from his point of view he belonged to a community – at first a real and then a lost but never a completely imaginary community – for which he felt responsible. This was a community of action, the community of his

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- fellow SS members, who helped him to escape and kept contact with him in Argentina. More generally, this may have been the community of “the German youth,” for whom he was even willing to be hanged in public in order to help them “lift the burden of guilt.” *Ibid.*, 251.
- 20 Friedrich Nietzsche, “On the Uses and Disadvantages of History for Life,” in *Untimely Meditations*, trans. R. J. Hollingdale (Cambridge, 1983).
- 21 *The Human Condition*, 241.
- 22 *Ibid.*
- 23 G. W. F. Hegel, *Philosophy of Right*, trans. T. M. Knox (Oxford, 1980), nos. 99–102.
- 24 *The Human Condition*, 242–43.
- 25 *Ibid.*, 239.
- 26 *Ibid.*, 199ff.
- 27 *Ibid.*, 241.
- 28 Kant, *Religion*, 20.
- 29 *The Human Condition*, 241 (my emphasis). She is interested instead in the phenomenology of *banal* evil which occupies her directly in *Eichmann in Jerusalem* and indirectly in *The Origins of Totalitarianism*. Totalitarianism, whatever its “origin” may be (though the use of this term is highly dubious in her main book; cf. Canovan, *Hannah Arendt*, 29), does not explain the origin of radical evil, only the condition of its normalization. See pp. 110, 114ff. below.
- 30 *The Origins of Totalitarianism*, 157.
- 31 *The Human Condition*, 239–40.
- 32 Jews recall and commemorate one such intervention at Passover, when they celebrate the redemption of the Israelites and the devastation of the Egyptians by the ten plagues and drowning in the Red Sea, and they pray for similar interventions to save them from their oppressors (“pour out thy wrath on the Gentiles...”). On radical otherness and divine intervention in the Passover Hagaddah, see Adi Ophir, “From Pharaoh to Saddam Hussein: The Reproduction of the Other in the Passover Hagaddah,” in Lawrence J. Silberstein, ed., *The Other in Jewish Thought and History* (New York, 1994).
- 33 I am following here Derrida’s interpretation of the violence involved in the foundation of the law in the Force of Law. See Jacques Derrida, “Force of Law: ‘The Mystical Foundation of Authority’,” *Cardozo Law Review* 11 (1990): 919–1045. See also Lyotard, *The Differend*, “Declaration of 1789 Notice.” Derrida himself follows Benjamin’s “Zur Kritik der Gewalt” (1921), a text closely associated with Sorel’s seminal *Reflections on Violence*, but perhaps even more so with the political theologies of Gershom Scholem and Karl Schmitt, both of whom were,

of course, part of Arendt's early intellectual milieu. See Shlomo Sand, "Gedanken zu Niederlagen: Generalstreik, göttliche Gewalt und Dekonstruktion," in A. Noor, ed., *Walter Benjamin und die französische Moderne* (Freiburg, forthcoming, 1997); and Christoph Schmidt, "The Political Theology of Gershom Scholem," *Theory and Criticism* 6 (1995):149–58 (in Hebrew). Arendt herself does not go that far. She made a closely related point in her discussion of Jefferson and the foundation of the Declaration of Independence in *On Revolution* (pp. 190–94), but stressed the supposed agreement among the original actors rather than the violent act they had exercised in order to make this agreement general enough.

34 Cf. Michel Foucault, *Discipline and Punish*, pt. 1, and *The History of Sexuality*, vol. 1 (New York, 1980), 135–39.

35 *Eichmann in Jerusalem*, 256.

36 Ibid., 257–58.

37 Ibid., 6–7.

38 Arendt notes that the theatrical aspect of the trial collapsed rather quickly (*ibid.*, 8–9). She never fully realized the ongoing effect the trial had on its Jewish audience.

39 "In espousing anti-Semitism, [the anti-Semite] ... chooses the permanence and impenetrability of a stone.... The anti-Semite is a man who wishes to be a pitiless stone, a furious torrent, a devastating thunderbolt – anything except a man." Jean-Paul Sartre, *Anti-Semite and Jew* (New York, 1948), 53–54. It is interesting to note in this context that according to Sartre the anti-Semite, whose "business is with evil ... to unmask it, to denounce it" (p. 45), ascribes to the Jew "a will to evil" (p. 40). The Jew's deeds being the outcome of willed evil, he may be considered by the anti-Semite – had he known Kant – as an incarnation of radical evil.

40 *Eichmann in Jerusalem*, 5.

41 Ibid., 261.

42 Ibid., 272. Arendt makes this point with reference to the Nazis: "those state employed mass murderers must be prosecuted because they violated the order of mankind and not because they killed millions of people." These crimes help to articulate a unity which has never been realized before in such a fashion, the unity of mankind, and hence it calls for a new unifying authority. An "international penal code" must be established that would embody this authority and articulate its unifying principles against those unprecedented and unique "crimes against humanity" (*ibid.*). In the meantime, the court in Jerusalem, like any other national court facing this type of crime, is merely a representative of and a substitute for that future international tribunal. In fact,

Arendt went so far as to suggest that the Israeli government should have expressed its willingness to hand Eichmann over to an international court established by the United Nations in order to impress “on worldwide public opinion the need for a permanent international criminal court” (*ibid.*, 270).

- 43 For other reasons, which are also related to the specific language game at the court, the latter cannot be interested in the discourse of the social theorist, especially not in the “cog theory.” See p. 108 below.

44 *Eichmann in Jerusalem*, 19, 260.

45 *Ibid.*, 277, 279.

46 Cf. *The Origins of Totalitarianism*, 156–57.

47 *Eichmann in Jerusalem*, 208–9, 261, 276.

48 *Ibid.*, 106, 109.

49 *Ibid.*, 276.

50 *Ibid.*, 289.

51 *Ibid.*, 277–79.

52 It was neither a “theory” nor an “explanation,” Arendt says in the “Postscript,” *ibid.*, 288.

53 The *differencia specifica* of totalitarian evil thus identified by Arendt still seems to be valid. The question is whether such a *normalization* of mass murder of the kind that emerged and consolidated in the Nazi and Stalinist regimes can be ascribed to other cases of extermination. However, normalization is a sociological and psychological, not a moral predicate. One should not understand its employment in this context as a kind of perverse attempt to place different cases of large-scale exterminations (e.g. the elimination of the Indian populations of the Americas, the genocides in Cambodia or Rwanda) on a scale of evil. See Zygmunt Bauman, *Modernity and the Holocaust* (Ithaca, 1989). Although Bauman’s perspective is the history of sociology, his main insights are very close to Arendt’s.

54 *Eichmann in Jerusalem*, 288.

55 *The Origins of Totalitarianism*, 156–57.

56 *Ibid.*, 149–53.

57 *Eichmann in Jerusalem*, 136.

58 *Ibid.*, 95.

59 *Ibid.*, 150.

60 *Ibid.*, 146.

61 *Ibid.*, 150.

62 *Ibid.*, 106.

63 *Ibid.*, 24.

64 *Ibid.*, 148–49.

65 *Ibid.*, 137.

66 Ibid., 146–47.

67 *The Origins of Totalitarianism*, 97–98.

68 Arendt cites Judge Halevi's famous verdict at the trial of the soldiers who committed the massacre at Kfar Kassem in 1956. She insists of course on the radical difference between massacre as the exception in the Israeli case and as the rule in Eichmann's. It was the Israeli court that drew the analogy. See *Eichmann in Jerusalem*, 292, 293.

69 Ibid., 148.

70 Ibid., 293.

71 Banality was associated with evil in Arendt's earlier text too, appearing in the same passage in which she discussed radical evil, but with a significantly different meaning: "Totalitarian experiments in human nature have not changed man but created a human society in which the nihilistic banality of *homo homini lupus* is consistently realized.... The totalitarian belief that everything is possible [which guided those experiments] seems to have proved only that everything can be destroyed." *The Origins of Totalitarianism*, 157 (my emphasis).

72 *Eichmann in Jerusalem*, 277.

73 This was one of Adorno's main insights in *Negative Dialectics*. Auschwitz, he said, "paralyzed" our metaphysical faculty because the events which it names "have shattered the basis on which speculative ... thought could be reconciled with experience." Theodor W. Adorno, *Negative Dialectics*, trans. E. B. Ashton (New York, 1973), 362. Lyotard has made this insight a key point in his deconstruction of the "rules" of Hegel's speculative discourse on the one hand and in his presentation of Auschwitz as a model of differend on the other hand. Cf. Lyotard, *The Differend*, "Hegel Notice"; no. 152.

74 Hannah Arendt, "Civil Disobedience," in *Crises of the Republic* (1969; New York, 1972); "Thinking and Moral Considerations: A Lecture," *Social Research* 38, no. 3 (Autumn 1971): 417–46. Indeed, in the latter essay and elsewhere she observed that no one who had possessed "the personal conscience that accompanies the habit of thinking" could have become an Eichmann-type law-abiding citizen. But, as Canovan rightly noted, she does not suggest that conscience "could be an answer to the political problems posed by totalitarianism" – or of any other political regime for that matter – only that conscience may prevent one from being implicated, personally, in evil. Conscience concerns the self not the world. Canovan, *Hannah Arendt*, 178.

75 *The Human Condition*, 243.

76 "Hope for man in his singularity lay in the fact that not man but men inhabit the earth and form a world between them. It is human

- worldliness that will save men from the pitfalls of human nature." *On Revolution*, 96.
- 77 That the distance between the two forms is smaller than one would like to think and that the opposition between them is not as viable as one would hope *does not mean and cannot possibly mean* that Kantian moral theory lies at the "origin" of totalitarianism or is in any way responsible for its emergence.
- 78 Cf. Claude Lefort, "The Question of Democracy," in *The Political Forms of Modern Society*. The logic of the public realm based on visibility and plurality and the logic of Kantian morality are, perhaps to one's surprise or disappointment, incompatible. Kant himself made this claim quite explicitly. In his vision of an enlightened public sphere (which does not concur with Arendt's but still contains elements of visibility and publicity and a space for relatively free communication), judgment and action are strictly separated, and morality is systematically distinguished from legality (in fact, the two are heterogeneous genres of discourse). The relative autonomy of this public sphere and its seemingly moral face are guaranteed by the good will of an enlightened, rational despot and the happy coincidence that brought him to power. "In this respect, this is the age of Enlightenment, or the century of Frederick." Immanuel Kant, "What Is Enlightenment?" in *idem, On History*, ed. L. W. Beck, (Indianapolis, 1963), 9.
- 79 Self-identity established through the faculty of promise is "the identity between the one who promises and the one who fulfills" (*The Human Condition*, 237). It is wholly dependent on the presence of others who may confirm and deny it. Self-identity thus becomes a moral problem which concerns the relation between self and others no less than the relation of the self to itself. Arendt is somewhat ambivalent about this point, but her half-baked idea can certainly be developed in the direction of a morality centered on the other and not on the self.
- 80 *Ibid.*, 237–38.
- 81 It is in this context that one should place Arendt's critique of modernity, her nostalgia for the Greek and Roman world, even, to a certain extent, for the middle ages, and finally her possible posthumous association with postmodern thinkers like Richard Rorty, Jean-Luc Nancy or Jean-François Lyotard.
- 82 *Eichmann in Jerusalem*, 14–15.
- 83 The Jews were not the victors of the war; they were hardly its survivors. The Jewish State may be said to have profited from the war, but this too was made possible only because the Jews were so horribly destroyed during its course. Eichmann was brought to justice in Jerusalem by those who claimed to represent the victims because he was made a

representative of the victory of Nazism over European Jewry. In fact – or this was certainly Arendt's view on the matter – despite the partisans' resistance and the revolts in the ghettos, there never was a war or a "struggle unto death" between the Jewish people and the Nazi regime, only destruction of the former by the latter.

84 *Eichmann in Jerusalem*, 277. Arendt is quoting from Yosal Rogat, *The Eichmann Trial and the Rule of Law* (Santa Barbara, CA, 1961).

85 *Eichmann in Jerusalem*, 279.

86 But first Arendt had to get rid of the allegation of "collective German guilt." In her verdict, the court believes Eichmann's denial of having had any intention to do wrong; it accepts the accidental nature of his position in the machinery of destruction and agrees that it was quite likely that under different circumstances he never would have committed any wrong. But Arendt's court rejects the legal consequences the defense tried to draw from this fact – that Eichmann was guilty like any other German and therefore, from a strictly legal point of view, not guilty. Yes, almost everyone in Germany at the time was guilty. No, this is not a reason to save anyone from punishment. One cannot erase the gap between being susceptible to becoming the author of crimes and actually being such an author.

87 One may interpret Arendt as saying that Eichmann had to be executed "only" because he had taken an active part in the policy of mass murder, not because he continued to represent it. But this would make a large part of her attempt to define totalitarian crimes obsolete.

88 Cf. Jacques Derrida, *Of Grammatology* (Baltimore and London, 1976), pt. 2, chap. 2, esp. 144–45. Of course, one may say with Derrida, that this is always the case with any form of representation because the representing element supplements the represented with what it is most conspicuously missing, i.e. presence. However, when distinguishing supplementing from other forms of representation, I would like to emphasize those other missing qualities of the represented element which cannot be generalized and which are constituted in a particular way as both missing and supplemented in each case of representation.

89 Hannah Arendt, *Lectures on Kant's Political Philosophy*, ed. Ronald Beiner (Chicago, 1982). Arendt's reading of Kant in these lectures is much closer to what was implied by her own idea of the public realm. But this quite unusual reading of Kant focuses mainly on the *Critique of Judgment*, ignores most of Kant's lesser but more explicit political writing and disregards completely the *Critique of Practical Reason* and Kant's theory of moral judgment. Cf. Ronald Beiner, "Hannah Arendt on Judging," in *Lectures*, 142ff. The opposition I have drawn here, and on which my argument relies, has mainly this rigid conception of

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- Kantian morality in mind and the way it is still maintained, albeit in the background, in Kant's lesser political writings.
- 90 And if I have supplemented in this text Arendt's narrative and analysis in order to better articulate this relation between Eichmann and Kant, this has been entirely in line with Arendt's own chain of supplements.
- 91 Indeed, Arendt and the Israeli authorities did not use the supplement "Eichmann" in the same way, and if I had to choose among the two, I would certainly prefer Arendt's way of constructing supplements.
- 92 *Eichmann in Jerusalem*, 278.
- 93 *Ibid.*, 279.
- 94 Those who attempted to bring John Demjanjuk to justice over twenty-five years after the Eichmann trial meant to reactivate the binary logic of totalitarianism and supply its institutional embodiment, but they failed completely. Everything – from the identity of the accused through his deeds during the war up to the character of the attorney for the defense – worked as if it refuted the logic of either-or. Perhaps the failure of the Israeli authorities' attempt to bring Demjanjuk to justice can be interpreted as one hallmark of the end of the spell of the logic of totalitarianism. Or is this merely wishful thinking?
- 95 *The Origins of Totalitarianism*, 157.