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Seyla Benhabib

**Identity, Perspective and Narrative in
Hannah Arendt's *Eichmann in Jerusalem****

Among all of Hannah Arendt's writings, *Eichmann in Jerusalem* generated by far the most acrimonious and the most tangled controversy, which has since cast a long shadow on her eventful but otherwise respectable and illustrious career as a public intellectual and academic.¹ The Eichmann "affair" launched a host of questions not only about her as a political thinker but as an individual Jew. Gershom Scholem's cruel phrase that Hannah Arendt lacked "Ahabath Israel" (love of the Jewish people) captures this collective bitterness.²

Ironically this book is Hannah Arendt's most intensely Jewish work, in which she identifies herself morally and epistemologically with the Jewish people. It is as if some of the deepest paradoxes of retaining a Jewish identity under conditions of modernity came to the fore in Arendt's search for the moral, political and jurisprudential bases on which the trial and sentencing of Adolf Eichmann could take place. Arendt had struggled to bring together the universal and the particular, her modernist cosmopolitanism and her belief in some form of collective Jewish self-determination all her life. Precisely because this work was so close to who she truly was, it distracted from her equanimity and exhibited at times an astonishing lack of perspective, balance of judgment and judicious expression. Arendt's dimly disguised and almost racist comments on Chief Prosecutor Gideon Hausner's "Ostjüdische" background, her childish partisanship for the "German-educated" judges, her horrified expressions about the "oriental mob" outside the courtroom in Jerusalem, all suggest a certain failure of nerve and lack of distance from the topic at hand.³ Hannah Arendt was punished by the Jewish community precisely because she, like so many others who were also Holocaust survivors, had not found the right public language, the right dictum through which to narrate past sorrow, suffering and loss.

A letter to Mary McCarthy of October 1963 hints at Arendt's state of mind when writing this work:

You were the only reader to understand what otherwise I have never admitted – namely that I wrote this book in a curious state of euphoria. And that ever since I did it, I feel – after twenty years [since the war] – light-hearted about the whole matter. Don't tell anybody; is it not proof positive that I have no "soul"?⁴

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The use of the term "light-hearted," like the phrase "the banality of evil," is another terminological infelicity on Arendt's part; she did not mean that she was joyful or carefree about the whole matter; she meant rather that her heart was lightened by having shed a burden. By voicing in public the shame, rage and sadness she had carried in private for thirty years, she was finally unloading some of the burden history had imposed upon her. Arendt had written about totalitarianism, anti-Semitism, the extermination camps, the Nazi death machinery before. What was unprecedented in the Eichmann affair was that for the first time a struggle broke out among the Jewish community and the survivors of the Holocaust over how and in what terms to appropriate the memory of the Holocaust and its victims.

In writing *Eichmann in Jerusalem* Arendt could not recapture the lyrical and almost elegiac beauty of the loss of home and world brought to expression by her in the early article "We Refugees."⁵ The question of narrative voice which had so preoccupied her during the time in which she wrote *The Origins of Totalitarianism* abandoned her in this work.⁶ The unwieldiness of the narratives she tried to hold together in *Eichmann in Jerusalem* as well as the existential closeness of the subject matter gave rise to a work that still leaves one at times breathless, and at others puzzled, baffled and irritated.

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There are at least three sociohistorical narratives in *Eichmann in Jerusalem*, each of which could have been the topic of separate volumes: first is Arendt's reporting of the circumstances of

Eichmann's arrest, detention and trial by the Israeli authorities, including the behavior of Chief Prosecutor Gideon Hausner during the proceedings. Second is the account of the role of the Jewish Councils (*Judenräte*) – the special committees appointed by the Nazis with a decree of 21 September 1939 – in the administration of the Jewish populations of Poland, the Baltic countries (Lithuania, Latvia and Estonia), the occupied areas of the USSR (Belorussia and Ukraine), and of their role in cooperating with the Nazis in carrying out the Final Solution.⁷ Third is her attempt to come to grips with the behavior of so-called “ordinary German citizens” during the Nazi regime and the Holocaust. Eichmann becomes for her a paradigm case for analyzing how neither particularly evil nor particularly smart people could get caught in the machinery of evil and commit the deeds they did.

It is the coming together of these narratives with her philosophical thesis concerning the “banality of evil” that baffled her readers. At one level it seemed as if Arendt was accusing her own people and their leaders of being complicitous in the Holocaust while exculpating Eichmann and other Germans through naming their deeds “banal.”⁸

Recent historical research has shown that on a number of occasions Arendt's judgments were insufficiently documented and ill-founded. In his introduction to the 1986 German reedition of *Eichmann in Jerusalem*, the historian Hans Mommsen notes that the book “can be faulted in several respects”:

It contains many statements which are obviously not sufficiently thought through. Some of its conclusions betray an inadequate knowledge of the material available in the early 1960s. Its treatment of the historical events involved, besides making use of Gerald Reitlinger's older work, was based primarily on the account by Raul Hilberg of the extermination of the European Jews which had appeared in 1961. Although she was very critical of Hilberg's overall interpretation, his conclusions were very similar to her own on critical points. She also sometimes betrayed a journalistic approach in her evaluation of information whose authenticity could only be established

by careful historical analysis and to a great extent by a further examination of the original sources.⁹

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Mommsen lists several such issues: Arendt had minimized the resistance to Hitler and in the original edition had mentioned the anti-Hitler conspiracy of 20 July 1944 only incidentally;¹⁰ she still held onto the questionable view that German communists had entered the NSDAP (Nazi Party) in massive numbers; she had underestimated the communist resistance to Hitler.¹¹ Mommsen observes: "She did not adequately explain the deeper reasons why a general will to resist the regime did not develop. As in her interpretation of the collaboration of many Jewish officials, she made the absence of a willingness on the part of individuals to sacrifice their lives the yardstick of her judgement."¹²

Indeed, of all the thorny historical and moral issues touched upon by Hannah Arendt, her evaluation of the behavior of the Jewish Councils remains the most difficult. It was also her passing judgment on these events and the individuals involved in them which earned her the wrath, rejection, condemnation and contempt of the established Jewish community.¹³ Arendt should have distinguished more carefully among the various stages of the "silent" cooperation between the Nazi regime and various Jewish organizations and committees. Before 1936 there was some collaboration between the Gestapo and Zionist organizations which shared "a negative identity of aims" in that each, albeit in different ways, wanted the Jewish population to leave Germany and other European territories.¹⁴ Until 1938 the Central Committee of German Citizens of Jewish Faith retained the hope of being able to find some *modus vivendi* with the regime. Arendt used the term "der jüdische Führer" (the Jewish Führer) to describe the activities of Leo Baeck, the former Chief Rabbi of Berlin, a terminology that she dropped in later editions of the book.¹⁵

Arendt was concerned about the role of the Jewish Councils from the very beginning of the Eichmann controversy. She wrote to Karl Jaspers on 23 December 1960, before the beginning of the trial:

I'm afraid that Eichmann will be able to prove, first of all, that no country wanted the Jews (just the kind of Zionist propaganda which Ben Gurion wants and that I consider

a disaster) and will demonstrate, second, to what a huge degree the Jews helped organize their own destruction. That is, of course, the naked truth, but this truth, if it is not really explained, could stir up more anti-Semitism than ten kidnappings.¹⁶

A few years later Arendt was still convinced that the reason why the Jewish “establishment” (her term) was taking such an extraordinary interest and going to such massive expenses in attacking her was that “the Jewish leadership (Jewish Agency before the State of Israel was founded) has much more dirty laundry to hide than anyone had ever guessed – at any rate, I don’t know very much about it. As far as I can see, ties between the Jewish leadership and the Jewish Councils may be involved.”¹⁷

Establishing the extent and nature of the cooperation with the Nazis on the part of various Jewish organizations, which were faced with extremely diverse territorial and demographic conditions, extending from the Jewish communities of Berlin to the Jewish Councils of the ghettos of Lodz, Vilna and Bialystok, will be the task of future historians of the Holocaust. Arendt’s position on the role of the Jewish Councils remains ambiguous: on the one hand, one can read her as if her sole concern was with the lack of Jewish resistance and uprising of the kind that subsequently took place in the Warsaw ghetto. Given her left-Zionist sympathies, which went back to her student days, this reaction was of course understandable. On the other hand, she was extremely critical of Chief Prosecutor Gideon Hausner in the Eichmann trial who would ask witnesses precisely why they did not resist. Arendt herself considered this line of questioning “cruel and silly.”¹⁸

What then were her own motives in raising these questions? Was it so difficult to understand that Jewish communities and their leaders could not grasp the magnitude, as well as the unprecedentedness, of the crime which was being perpetrated against them? Was it so hard to grasp that they would interpret Nazi extermination policy as a more massive form of the traditional anti-Semitism to which they had been subjected since time immemorial?¹⁹ Was it so impossible to see that the Jewish Councils had tried to keep a semblance of order and everydayness in running the lives of their communities and somehow still entertained the hope that

they could influence and maybe even postpone the worst from happening to them?²⁰ If it was “cruel and silly” to ask the Jews to have resisted under such circumstances, as Arendt accused Gideon Hausner’s line of questioning of being, then what was she after herself?

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An interview recently discovered in her posthumous papers, and not yet available to the larger public, throws some interesting light on these questions. On 19 September 1963 Samuel Grafton, who had been commissioned to write an article for *Look* magazine about the reaction to *Eichmann in Jerusalem*, sent Arendt some questions. She agreed to answer them on the condition that she would be able to review the article. In response to Grafton’s query about when the community leaders should have urged “Cooperate no longer, but fight!” Arendt observes:

There never was a moment when “the community leaders [could] have said: ‘Cooperate no longer, but fight!’” as you phrase it. Resistance, which existed but played a very small role, meant only: we don’t want that kind of death, we want to die with honor. But the question of cooperation is indeed bothersome. There certainly was a moment when the Jewish leaders could have said: We shall no longer cooperate, we shall try to disappear. This moment might have come when they, already fully informed of what deportation meant, were asked to prepare the lists for the Nazis for deportation....

I answered your questions with respect to this point, but I should like to point out that it was never my intention to bring this part of our “unmastered past” to the attention of the public. It so happened that the *Judenräte* came up at the trial and I had to report on that as I had to report on everything else. Within the context of my Report, this plays no prominent role.... It has been blown up out of all reasonable proportions.²¹

The ironic use of the term “unmastered past” in this context, “unbewältigte Vergangenheit,” which was coined to describe German attempts to come to terms with the Nazi past in the postwar period, again shows the gratuitous sarcasm with which

Arendt could offend in this debate. Since there was and could not be any symmetry between the position of the victims as distinguished from the perpetrators around the questions of guilt and cooperation, to refer to both with the terminology of coming to grips with the past was insensitive. But Arendt is also on the defensive in her reply to Grafton's questions because the *Judenräte* had preoccupied her already before the Eichmann trial, at the time of Kasztner's death. Her letter to Karl Jaspers of 23 December 1960 clearly supports this reading. Kasztner, a prominent member of the Hungarian Jewish community who settled in Israel after the war, had been charged with providing Eichmann himself with a list of Jews not to be deported to the camps, including members of his own family. This accusation led to an emotion-laden slander trial in Israel in 1955. Kasztner was killed in Tel Aviv in March 1957.²² It was widely believed, and certainly Arendt herself thought so, that he had worked for the Jewish Agency. Given her preoccupation with the question of Jewish collaboration from the very start, it is hard to accept at face value her claims that these topics were merely of secondary interest to her.

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Nevertheless, despite the contentiousness of many of her judgments, Arendt is to be credited for being among the first to encourage facing the facts of the Nazi regime and the Holocaust in all their naked horror.²³ She herself struggled with the questions of who speaks for the memory of the victims, if anyone at all, and in what terms one can do so.²⁴ Her attempt to retain a voice and vantage point outside the established organizations of the State of Israel and world Jewry got her into trouble. Where was she speaking from, and on whose behalf was she speaking? She was not an Israeli citizen, nor a concentration camp survivor – although she had been in a detention camp in Gurr in the south of France. She had become an American citizen in 1941 and had practically abandoned Jewish politics, with which she had been intensely involved since 1933, after the death of Judah Magnes in 1948.²⁵ When she wrote her pieces on the trial of Adolf Eichmann, first for the *New Yorker* magazine, many did not know of her previous intense involvement with Jewish and Zionist politics and her work with Jewish organizations.

Hannah Arendt had left Germany in 1933 because she was collecting material for her friend Kurt Blumenfeld on German

professional organizations and business associations which were beginning to take punitive action against their Jewish members. Blumenfeld would in turn present this material at the 18th Zionist Congress in 1933.²⁶ She was arrested by the Gestapo, briefly detained and subsequently left Germany. After coming to Paris she worked for an Aliyah organization which was settling children in Palestine. In New York she wrote on Jewish issues for the Yiddish periodical *Der Aufbau*. Noteworthy in this context is her call for a Jewish army to fight against the Nazis in cooperation with Allied forces.²⁷ After the establishment of the State of Israel, and particularly after the failure of Judah Magnes's efforts for the establishment of a binational, democratic federation in Palestine, and the hostility expressed toward this view among American Jewry, Arendt fell silent on the "Jewish question." Her Eichmann book sent her back to the memories of a past in which she had not only been a persecuted and stateless Jew, but a political militant and left Zionist who was very much part of the milieu of European socialist and communist sympathizers, fighters and organizers. Her recently published correspondence with her husband, Heinrich Blücher, who was a member of the Spartakist Bund, gives one a full flavor of this "milieu." Here is a brief exchange on some aspects of the "Jewish question":

In a long disquisition of 21 August 1938 on the "Jewish question" Blücher writes to Arendt:

Once the radio of the world has announced a couple of times that Mordechai Veiteles, conductor of the first train of the 2nd company of the first Jewish volunteer battalion – who fell in Saragossa – then these Jewish names will have a very strong echo.... And when we have all been emancipated by freedom, then it will be time to tell these Jews: look at this, together we have won the world. If you want to take your part of it to develop yourself in it further, then do so.²⁸

Arendt answers tongue in cheek, referring to Blücher himself as the "Golem":

The Golem is wrong when he argues that the Jews are a people, or a people which, like others, is in the process of realizing itself. In the East they are already a people without territory. And in the West, God knows what they are (including myself).... And if we want to be a people, some territory or other which the world revolution will one day give us will not do.... Palestine is at the center of our national aspirations, not because the gentlemen from whom we are all said to be descended in one form or another lived there 2,000 years ago, but because for 2,000 years this most crazy people of all peoples has amused itself by preserving the past in the present, because for this people “the ruins of Jerusalem are buried in the heart of time.” (Herder)²⁹

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By the time Hannah Arendt wrote *Eichmann in Jerusalem* these historical options had been played out. State Zionism and not utopian socialism won the day in Palestine, and a federation of European peoples, among whom the Jews could also have had a role, was killed as a project in the gas chambers of Auschwitz, Dachau and Bergen-Belsen. Part of the tragedy behind Arendt’s report on the Eichmann trial is the passing away of the memory of this historical milieu, which in the 1920s and 1930s had brought into contact Bundists, who wanted to build a Jewish entity as part of a federated Soviet Socialist Peoples’ Republics, national Zionists, who wanted a separate Jewish state in Palestine, labor Zionists, who thought the dream of socialism could only be realized in a Jewish state, after the “Jewish question” had been solved, and communist militants, Jewish and non-Jewish, who fought in the International Brigade in Spain; of these latter some were subsequently murdered by Stalin, a few joined the Nazis, and a number found their way to Palestine. Although she was not a militant herself, Hannah Arendt was molded by the dreams and hopes of this political milieu, this “other Europe,” which she then saw realized in the French Resistance to the Nazis after 1941. Many of her judgments about the behavior of established Jewish organizations during the Holocaust express the standpoint of a Jewish political militancy which, ironically, at times brought her into the company of the

militant Zionist Revisionist leader Ze'ev Jabotinsky and his group within the Zionist movement.

Emerging out of this milieu, Hannah Arendt also had a much more differentiated and nuanced judgment of the behavior of individual Germans and Jews during the Nazi regime. For her, generalizations about German national character, German anti-Semitism, etc. would have been impossible precisely because, as one who had lived through this period, she had a sense of individual choices, biographies and commitments, all of which indicated that "it could have been otherwise." The case of Sergeant Anton Schmidt, who helped Jewish partisans by supplying them with forged papers and military trucks until he was arrested and executed by the Germans, movingly exemplified for Arendt this possibility, this "other Europe." With reference to Schmidt she writes:

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And in those two minutes, which were like a sudden burst of light in the midst of the impenetrable, unfathomable darkness, a single thought stood out clearly, irrefutably, beyond question – how utterly different everything would be today in this courtroom, in Israel, in Germany, in all of Europe, and perhaps in all countries of the world, if only more such stories could have been told.³⁰

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In the last pages of *The Origins of Totalitarianism* Hannah Arendt had written of the Holocaust and in particular of the extermination camps as the appearance of "radical evil" on earth. This term, which originates in Kant's *Religion within the Limits of Reason Alone*, was subsequently dropped by her.³¹ Writing the Eichmann book was a "cura posterior" (posterior cure) for her.³² Exactly why this was so is harder to explain, for Hannah Arendt did not give up her claim that with the establishment of concentration and death camps "some radical evil, previously unknown to us," had occurred. What had occurred defied all hitherto known standards and confronted us with the realization that "something seems to be involved in modern politics that actually should never be involved in politics as we used to understand it..."³³ Arendt insists

at the end of *Eichmann in Jerusalem* that “every act that has once made its appearance and has been recorded in the history of mankind stays with mankind as a potentiality long after its actuality has become a thing of the past ... that the unprecedented, once it has appeared, may become a precedent for the future, that all trials touching upon ‘crimes against humanity’ must be judged according to a standard that is today still an ‘ideal’.”³⁴

Arendt changed none of her views on these questions in *Eichmann in Jerusalem*, but the phraseology of the “banality of evil” and of “thoughtlessness” which she used to describe Eichmann’s deeds was greatly misleading. Arendt forced the English language into a procrustean bed to convey her own complex, and perhaps even ultimately confused, reflections on the issue of “personal responsibility under dictatorships.” She did not mean that what Eichmann had cooperated in perpetrating was banal or that the extermination of the Jews, and of other peoples, by the Nazis was banal. It takes either a great deal of hermeneutic blindness and ill will or both to miss her meaning in the usage of this term, although of course one may disagree with the assessment of Eichmann’s psychology. The phrase the “banality of evil” was meant to refer to a *specific quality of mind and character* of the doer himself, and neither to the deeds nor to the principles behind those deeds.³⁵ Rereading *Eichmann in Jerusalem* one can feel Arendt’s bafflement at Eichmann’s persona and conduct before and during the trial. Writing in the “Postscript” that she would have welcomed a general discussion of the concept of the “banality of evil,” she continues:

Eichmann was not Iago and not Macbeth, and nothing would have been farther from his mind than to determine with Richard III “to prove a villain.”... He *merely*, to put the matter colloquially, *never realized what he was doing*. It was precisely this lack of imagination which enabled him to sit for months on end facing a German Jew who was conducting the police interrogation.... It was sheer thoughtlessness – something by no means identical with stupidity – that predisposed him to become one of the greatest criminals of that period.... That such remoteness from reality and such thoughtlessness can wreak more havoc than all the

evil instincts taken together which, perhaps, are inherent in man – that was, in fact, the lesson one could learn in Jerusalem.³⁶

To solve, or more correctly to think through the philosophical problem of moral judgment which this trial had raised for her in all its urgency, Arendt would turn in the years to come to Kant's moral and political philosophy.

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These deep perplexities of moral philosophy about thinking, judging and moral action were what really preoccupied Arendt in her attempt to analyze Eichmann's actions. Precisely because she herself had not resolved some of these perplexities, the wider public found it difficult to grasp what she was after. The phrase the "banality of evil" was secondary to Arendt's preoccupations with these larger issues of moral philosophy and may not even have been her very own coinage. The following comments by Karl Jaspers in a letter to Arendt of 13 December 1963 are quite illuminating on this issue:

Alcopley told me that Heinrich [Blücher] suggested the phrase "the banality of evil" and is cursing himself for it now because you've had to take the heat for what he thought of. Perhaps the report isn't true, or my recollection of it is garbled. I think it's a wonderful inspiration and right on the mark as the book's subtitle. The point is that *this* evil, not evil per se, is banal.³⁷

Whatever the origins of this term, whether invented by Arendt or Blücher or, as some evidence suggests, even Jaspers himself, Arendt's views on evil were of quite a different nature than what was commonly assumed about this phenomenon in the tradition of Western thought. In using the phrase the "banality of evil" and in explaining the moral quality of Eichmann's deeds not in terms of the monstrous or demonic nature of the doer, Arendt became aware of going counter to the tradition of Western thought which saw evil in metaphysical terms as ultimate depravity, corruption or sinfulness. The most striking quality of Eichmann, she claimed, was not stupidity, wickedness or depravity but one she described as "thoughtlessness." This in turn led her to the question:

Might the problem of good and evil, our faculty for telling right from wrong, be connected with our faculty of thought?... Could the activity of thinking as such, the habit of examining whatever happens to come to pass or attract attention, regardless of results and specific contents, could this activity be among the conditions that make men abstain from evil-doing or even actually “condition” them against it?³⁸

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She asked: “Is our ability to judge, to tell right from wrong, beautiful from ugly, dependent upon our faculty of thought? Do the inability to think and a disastrous failure of what we commonly call conscience coincide?”³⁹

That these issues in moral philosophy lay behind this ill-chosen phrase and Arendt’s other terminological infelicities is also evidenced by her correspondence with Mary McCarthy. On 10 August 1945 McCarthy wrote to Arendt with a philosophical query. She had been pondering Raskolnikov’s old problem in Dostoevsky’s *Crime and Punishment*: “Why shouldn’t I murder my grandmother if I want to? Give me one good reason.”⁴⁰ Arendt responded with a professorial gesture which acknowledged the depth as well as the difficulty of McCarthy’s question: “The philosophic answer would be the answer of Socrates: Since I have got to live with myself, am in fact the only person from whom I never shall be able to part, whose company I shall have to bear forever, I don’t want to become a murderer; I don’t want to spend my life in the company of a murderer.”⁴¹ McCarthy is unconvinced: “The modern person I posit would say to Socrates, with a shrug, ‘Why not? What’s wrong with a murderer?’ And Socrates would be back where he started.”⁴²

Nearly twenty years later they return to the same question. Arendt had sent her manuscript on “Thinking and Moral Considerations” to McCarthy to be edited. McCarthy complains, and not for the first time, about Arendt’s tendency to force the English language to mean what it does not mean. She observes that “thoughtlessness” in English would mean “heedlessness, neglect, forgetfulness,” and that Arendt should come up with a synonym like “inability to think.” Even with this terminological correction, McCarthy remains unconvinced that what Eichmann suffered from

was not extraordinary moral wickedness or depravity but “thoughtlessness.” She writes that “Eichmann was profoundly, egregiously stupid.... Here I rather agree with Kant ... that stupidity is caused ... by a wicked heart.”⁴³

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The Eichmann affair showed the centrality of moral and political judgment for human affairs in many and varied ways: there was the retrospective judgment which every historian and narrator of past events exercised; there was the moral judgment of the contemporaries who stood in judgment over Eichmann and his actions, and there was also the lack of a faculty of judgment on Eichmann’s own part. Even in her subsequent reflections on these questions Arendt could not resolve the issues in moral philosophy which this trial had posed for her.⁴⁴

Arendt’s contribution to moral and legal thought in this century certainly is not the category of the “banality of evil.” Rather, the category that is closest to the nerve of her political thought as a whole, and the one which I would argue will gain significance as the twentieth century approaches its end, is that of “crimes against humanity.”

*

After Eichmann’s kidnapping in Argentina by the Israeli Secret Service on 11 May 1960, both Karl Jaspers and Hannah Arendt are anguished about the illegality of this act and about the moral and legal issues involved in his being tried by an Israeli court.⁴⁵ Arendt was convinced to the very end that the State of Israel had committed a “clear violation of international law in order to bring him to justice.”⁴⁶ She also notes that what enabled Israel to get away with this in the international world community was Eichmann’s *de facto* statelessness. Neither postwar Germany nor Argentina, where he had settled under false pretenses, was to claim him as their citizen.

Inasmuch as she questioned the justifiability of the circumstances surrounding Eichmann’s capture, Arendt did not differ from Jaspers. Yet while the latter wanted Israel to hand over the jurisdiction of the trial to an International Court or body, she defended Israel’s right to bring Eichmann to trial and to pass judgment upon him.⁴⁷ There were three kinds of objections raised to the trial: first was the objection raised in the case of the

Nuremberg trials as well, that Eichmann was tried under a retroactive law and appeared in the court of the victors. Arendt thought that the Israeli court's reply to this objection was justifiable: the Nuremberg trials were cited in the Jerusalem court as precedent, and the Nazi Collaboration (Punishment) Law of 1950 in Israel was based on this precedent. Her observations on the principle "nullum crimen, nulla poena sine lege" (no crime, no wrongdoing without the law) are interesting. She observes that the principle of retroactivity, that no one can be condemned for an act that was not against the law at the time it was committed, only "meaningfully applies to acts known to the legislator."⁴⁸ If a previously unknown crime makes its appearance in human history, such as the crime of genocide perpetrated during the Holocaust, justice in this instance demands a new and unprecedented law. The Eichmann trial did not violate the principle of retroactivity, for prior to the Nuremberg trials there had been no law established by a human legislator under which he could have been tried.⁴⁹ The Nuremberg trials established such a law through the Charter (the London agreement of 1945), and Israel invoked its own law against genocide of 1950 which was based on the 1945 Nuremberg Charter. Arendt was not, therefore, particularly concerned with the argument that the justice meted out at the Nuremberg trials as well as in the case of Eichmann was the "justice of the victor" (*Siegerjustiz*), since she held to the view that the crimes perpetrated by the Nazi regime were of such an unprecedented nature that one needed new categories, new criteria for judging them. The Eichmann trial posed the dilemmas of judging "without bannisters," i.e. without recourse to established precedents, for everyone involved, from the jurors to the journalists and to world public opinion.

To the second objection, that the court in Jerusalem was not competent to try Eichmann, Arendt gave a more equivocal answer, for this issue concerned the State of Israel's right to represent and speak in the name of all the victims of Adolf Eichmann. Arendt is firm that insofar as Eichmann had participated in the killing of Jews because they were Jews, and not because they were Poles, Lithuanians, Romanians, etc., a Jewish political entity could represent his victims. The basis on which Israel could do so, she maintained, could be made consistent with the Genocide Conven-

tion adopted by the United Nations General Assembly on 9 December 1948, which provided that “persons charged with genocide ... shall be tried by a competent tribunal of the States in the territory of which the act was committed or by such an international penal tribunal as may have jurisdiction.”⁵⁰

Arendt’s gloss on this rather technical question of defining territorial jurisdiction leads to some rather surprising conclusions:

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Israel could easily have claimed territorial jurisdiction if she had only explained that “territory,” as the law understands it, is a political and legal concept, and not merely a geographical term. It relates not so much, and not primarily, to a piece of land as to the space between individuals in a group whose members are bound to, and at the same time separated and protected from, each other by all kinds of relationships, based on a common language, religion, a common history, customs, and laws. Such relationships become spatially manifest insofar as they themselves constitute the space wherein the different members of a group relate to and have intercourse with each other. No State of Israel would have ever come into being if the Jewish people had not created and maintained its own specific in-between space throughout the long centuries of dispersion, that is, prior to the seizure of its old [*sid*] territory.⁵¹

This is indeed a curious claim. If a citizen of a particular country or the consular space of a certain country is attacked in foreign territory, the government of the country of the victim would have the territorial competence to judge the perpetrators and ask for their extradition, etc. But is Hannah Arendt suggesting that the State of Israel has a claim to represent all Jews in the world, even those who are not Israeli citizens, on the grounds that this state itself could not have come into being “if the Jewish people had not created and maintained its own specific in-between space”? The main objection to this formulation would be that it would make membership in a state not an act of consent, choice or other indication of positive will, but simply a result of one’s ethnic or national identity. This analysis collapses the categories of citizen-

ship and nationality by almost suggesting that all ethnic Jews are potential Israeli citizens. This is a principle accepted by Israel's Law of Return; the obverse side of this Law is, of course, the denial of full citizenship rights to those whose ethnic identity or nationality is not Jewish but who nonetheless live in the territories under the jurisdiction of the State of Israel. Arendt's reflections on the matter of Israel's territorial jurisdiction to judge Eichmann run contrary to her otherwise careful distinctions between citizenship rights and national identity.

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This unresolved tension between the universal and the particular is nowhere more evident than in her articulation of the central category under which she thinks Eichmann should have been condemned, namely "crimes against humanity." This was the third set of jurisprudential issues which the trial had raised. Arendt criticized the sentence of the Israeli court for its juridical confusions. In particular, she was critical of its use of the category of "crimes against humanity," "to include genocide if practiced against non-Jewish peoples (such as the Gypsies or the Poles) and all other crimes, including murder, committed against either Jews or non-Jews, provided that these crimes were not committed with intent to destroy the people as a whole."⁵² For Arendt, this way of stating the question was utterly wrong-headed and was based on a fundamental misunderstanding of the category itself. The unprecedented category of "crimes against humanity" was invented, she insisted, precisely to name a new kind of act: namely, the act of genocide which was perpetrated against a people simply because it existed on the face of this earth as *this specific kind* of people, as exemplifying one way of being among the many possible modes of "human diversity." Jews had been killed not because they were enemies of the regime, class traitors, spies against the Führer, etc. but because *qua* Jews they were said to be certain kinds of beings who had no right to be on this earth. Genocide requires some form of race-thinking as its basis because it aims at the elimination of a people in virtue of the collective characteristics which it is constructed as possessing. All genocide is a form of "ethnic cleansing," as the recent war in Yugoslavia has taught us. Arendt observes:

Had the court in Jerusalem understood that there were distinctions between discrimination, expulsion and genocide, it would immediately have become clear that the supreme crime it was confronted with, the physical extermination of the Jewish people, was a crime against humanity, perpetrated upon the body of the Jewish people, and that only the choice of victims, not the nature of the crime could be derived from the long history of Jew-hatred and anti-Semitism. Insofar as the victims were Jews, it was right and proper that a Jewish court should sit in judgment; but insofar as the crime was a crime against humanity, it needed an international tribunal to do justice to it.⁵³

Hannah Arendt wanted finally to reconcile the universal and the particular, the ideal of humanity and the fact of human particularity and diversity. The concept of “crimes against humanity” immediately invokes the concept of the “right to have rights” discussed in *The Origins of Totalitarianism*.⁵⁴ In both cases an anthropological normative universal is being invoked. In virtue of our humanity alone, Arendt is arguing, we are beings entitled to be treated in certain ways, and when such treatment is not accorded to us, then both wrongs and crimes are committed against us. Of course, Arendt was thinking along Kantian lines that we are “moral persons,” and that our humanity and our moral personality coexist. Yet these are not the terms which she will use; nor will she, like Kant, seek to ground the mutual obligation we owe one another in our capacity for acting in accordance with the principles of reason. Even her formula the “right to have rights” is frustratingly ambiguous: if we have a right to have rights, who could deprive us of it? If we do not already all have such a right, how can we acquire it? Furthermore, what is meant by “a right” in this formula: a legally recognized and guaranteed claim by the lawgiver, or a moral claim which we, *qua* members of a human group, address to our fellow human beings, to be recognized as their equals? Clearly it is the second, moral meaning of the term “rights” that Arendt has in mind. But she is not concerned to offer a justification here.⁵⁵ She was not a foundationalist thinker and she stayed away from strategies of normative justification. The Eich-

mann trial was a watershed of sorts because it brought to the fore the contradictions which she had struggled with existentially and conceptually all her life.

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There is a normative “melancholia” in Hannah Arendt’s work. Her inconclusive reflections and ruminations on the fragility of human rights; her belief that we are not born equal but become equals through being recognized as members of a moral and political community, and her ironic acknowledgment that Eichmann, the former Nazi, was a “stateless” person like herself, the persecuted Jew, and that neither would be protected by an international legal and normative order – these episodes are some of the more salient instances when her melancholia about this century comes to the fore.

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Arendt was skeptical that moral beliefs and principles would ever be able to restrain or control politics in the twentieth century and give it a direction compatible with human rights and dignity. There is therefore a resistance on her part toward justificatory political discourse, toward the attempt to establish the rationality and validity of our beliefs in universal human rights, human equality, the obligation to treat others with respect. Although her conception of politics and of the political are quite inconceivable, unintelligible even, without a strongly grounded normative position in universalistic human rights, equality and respect, one does not find her engaging in any such exercises of normative justification in her writings.

Hannah Arendt’s thinking is deeply grounded in a position which I shall call “anthropological universalism.” *The Human Condition* treats human beings as members of the same natural species, to whom life on earth is given under certain conditions, namely those of natality, plurality, labor, work and action.⁵⁶ This philosophical anthropology proceeds from a level of abstraction which treats all forms of cultural, social and historical differentiation among humans as irrelevant when measured up against the “fundamentals” of their condition. There is an implicit ethical gesture in approaching the human condition from this level of abstraction, one that proceeds from our fundamental equality and

commonality as members of the same species. This philosophical anthropology can be viewed as a form of coming to one's senses morally, i.e. as a form of "Besinnung," a form of taking a hold of one's senses by grasping what it is to be human. What are some of the elements of such coming to one's senses? In the first place, an awareness of our natality as well as mortality, a cure for the sin, in St. Augustine's terms, of thinking that we are the ground of our being. We are not: we are fundamentally dependent creatures, born promiscuously to others like ourselves and radically dependent upon the good will and solidarity of others to become who we are. Furthermore, we are embodied creatures whose material needs must be satisfied by a constant engagement and metabolism with nature. This process of material engagement with the world is also one of world-constitution and world-creation. Like the anthropology of the young Marx in the *1844 Manuscripts*, Hannah Arendt also stresses the world- and object-creating qualities of human activities through her distinction between labor and work. We are creatures immersed in a condition of plurality: we are sufficiently like other members of our species so that we can always in some sense or other communicate with them; yet, through speech and action, we individuate ourselves, we reveal how distinctive we are. Plurality is a condition of equality and difference, or a condition of equality-in-difference.

This anthropological universalism contains an ethics of radical intersubjectivity, which is based on the fundamental insight that all social life and moral relations to others begin with the decentering of primary narcissism. Whereas *mortality* is the condition that leads the self to withdraw from the world into a fundamental concern with a fate that can only be its own, *natality* is the condition through which we immerse ourselves into the world, at first through the good will and solidarity of those who nurture us and subsequently through our own deeds and words. Insight into the condition of natality, while it enables the decentering of the subject, is not adequate to lead to an attitude of moral respect among equals. The condition of natality involves inequality and hierarchies of dependence. By contrast, Arendt describes mutual *respect* as "a kind of 'friendship' without intimacy and without closeness; it is a regard for the person from the distance which the space of the world puts between us."⁵⁷ It is the step leading from

the constituents of a philosophical anthropology (natality, worldliness, plurality, and forms of human activity) to this attitude of respect for the other that is missing in Arendt's thought. Her anthropological universalism does not so much justify this attitude of respect as it presupposes it. For, in treating one another as members of the same species, we are in some sense already granting each other recognition as moral equals. Arendt does not examine the philosophical step which would lead from a description of the *equality of the human condition* to the *equality which comes from moral and political recognition*. In Kantian terms, Arendt answers the question of "quaestio juris" – by what reason or on what ground should I respect the other as my equal? – with a "quaestio facti," a factual-seeming description of the human condition. The path leading from the anthropological plurality of the human condition to the moral and political equality of human beings in a community of reciprocal recognition remains philosophically unthematized.

Eichmann in Jerusalem remains a work that is volatile and difficult to decipher precisely because Adolf Eichmann's kidnapping, trial and sentencing became the prism through which some of the most touching and difficult issues of Arendt's life and work were refracted.

Notes

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- * This article is a much revised and expanded version of chapter 6 of my book *The Reluctant Modernism of Hannah Arendt* (Thousand Oaks, CA, 1996), 172ff. It was prepared during my stay at the Institut für die Wissenschaften vom Menschen in Vienna from July to December 1996. Many thanks to Sayres S. Rudy for his comments on an earlier version of this piece.
- 1 Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (1963), rev., enlarged ed. (New York, 1992).
 - 2 Gershom Scholem, "Eichmann in Jerusalem": An Exchange of Letters between Gershom Scholem and Hannah Arendt," *Encounter* 22 (Jan. 1964): 51–56; reprinted in Hannah Arendt, *The Jew as Pariah: Jewish Identity and Politics in the Modern Age*, ed. Ron H. Feldman (New York, 1986), 241.
 - 3 On Gideon Hausner, see *Hannah Arendt-Karl Jaspers Correspondence, 1926–1969*, ed. Lotte Köhler and Hans Saner, trans. Robert and Rita Kimber (New York, 1992), 434; on the "oriental mob," see *ibid.*, 435; on the "German-educated judges," see *Eichmann in Jerusalem*, 4.
 - 4 *Between Friends: The Correspondence of Hannah Arendt and Mary McCarthy, 1949–1975*, ed. Carol Brightman (New York, 1995), 168.
 - 5 Hannah Arendt, "We Refugees," originally published in the *Menorah Journal*, reprinted in *The Jew as Pariah*, 55–67.
 - 6 See my discussion in *The Reluctant Modernism of Hannah Arendt*, 62ff., for an exploration of these issues.
 - 7 See the authoritative volume by Isaiah Trunk, *Judenrat: The Jewish Councils in Eastern Europe under Nazi Occupation* (New York and London, 1972); Raul Hilberg, *Perpetrators, Victims, Bystanders: The Jewish Catastrophe, 1933–1945* (New York, 1992).
 - 8 See Jacob Robinson, *And the Crooked Shall Be Made Straight: The Eichmann Trial, the Jewish Catastrophe, and Hannah Arendt's Narrative* (New York, 1965). Robinson makes clear in his preface that his task is to "correct" Arendt: "Miss Arendt does not convey reliable information. She has misread many of the documents and books referred to in her text and bibliography. She has not equipped herself with the necessary background for an understanding and analysis of the trial" (p. vii). See

also the acrimonious exchanges between Hannah Arendt, Gershom Scholem and Walter Laqueur collected in *The Jew as Pariah*, 240ff.

- 9 English translation published as “Hannah Arendt and the Eichmann Trial,” in Hans Mommsen, *From Weimar to Auschwitz: Essays in German History*, trans. Philip O’Connor (Cambridge, 1991), 255.
- 10 See her own comments on this issue in the “Note to the Reader” of the 1964 edition; reprinted in the 1992 Penguin edition used here.
- 11 Mommsen, “Hannah Arendt,” 270.
- 12 Ibid.
- 13 Arendt was accused of every possible posture, extending from Jewish self-hatred to anti-Zionism, from insensitivity to tastelessness and of course arrogance. The reaction of the American Jewish community has been documented by Alan D. Krinsky’s senior thesis, “The Controversy” (Boston University, 1990). I would like to thank Professor Hillel Levine for making this thesis available to me. For a documentation of the German controversy, see F. A. Krummacker, ed., *Die Kontroverse: Hannah Arendt, Eichmann und die Juden* (Munich, 1964).
- 14 Mommsen, “Hannah Arendt,” 268.
- 15 On the circumstances surrounding this question, see Elisabeth Young-Bruehl, *Hannah Arendt: For Love of the World* (New Haven, 1982), 363ff. The reference is missing in the revised edition, see *Eichmann in Jerusalem*, 119.
- 16 Letter to Karl Jaspers, 23 Dec. 1960, in *Hannah Arendt-Karl Jaspers Correspondence*, 417.
- 17 Letter to Jaspers, 29 Oct. 1963, in *ibid.*, 524.
- 18 *Eichmann in Jerusalem*, 12.
- 19 Arendt herself suggests this question in the “Epilogue” to *ibid.*, 267.
- 20 For a masterful analysis of the “rationality” which may have guided the behavior of the Jewish Councils, in particular in those situations where there was a Jewish work force occupied in various German factories, see Dan Diner, “Historical Understanding and Counterrationality: The *Judenrat* as Epistemological Vantage,” in Saul Friedlander, ed., *Probing the Limits of Representation: Nazism and the “Final Solution”* (Cambridge, MA, 1992), 128–43.
- 21 Hannah Arendt, “Answer to Grafton, Draft,” in Arendt Archives as cited by Richard J. Bernstein, *Hannah Arendt and the Jewish Question* (Oxford, 1996), 209–10.
- 22 For the circumstances surrounding the accusations against Kaszner, his assassination and the public furor around this issue in Israel, see Tom Segev, *The Seventh Million: The Israelis and the Holocaust* (New York, 1993), 255–59, 282–84, 305–309.
- 23 See Michael R. Marrus, *The Holocaust in History* (Toronto, 1987), 4–5:

“Up to the time of the Eichmann trial in Jerusalem, in 1961, there was relatively little discussion of the massacre of European Jewry.... Since then scholarship has proceeded apace.... Hannah Arendt’s *Eichmann in Jerusalem*, originally an assessment of the trial for *The New Yorker*, prompted a debate in the historical literature that echoes to our own time.”

- 24 The volume edited by Saul Friedlander contains many interesting perspectives on these issues. See his introduction, as well as Yael S. Feldman, “Whose Story Is It Anyway? Ideology and Psychology in the Representation of the Shoah in Israeli Literature,” in *Probing the Limits of Representation*, 223–40.
- 25 The significance of Jewish cultural and political issues for Arendt’s political philosophy has been highlighted by Bernstein, *Hannah Arendt and the Jewish Question*. In *The Reluctant Modernism of Hannah Arendt*, I discuss Jewish politics and German *Existenz* philosophy, particularly the thought of Martin Heidegger, as the sources from which Arendt’s thought springs.
- 26 See Young-Bruehl, *Hannah Arendt*, 105, and my discussion of Arendt’s involvement in Jewish politics in those years in *The Reluctant Modernism of Hannah Arendt*, 35ff.
- 27 At the time there was also a Committee for a Jewish Army based in New York and created by the extremists of the Revisionist Party and their leader Vladimir Ze’ev Jabotinsky. When Arendt and Joseph Maier, her colleague from *Der Aufbau*, realized that the Committee was a Revisionist front, they formed a group of their own called “Die jungjüdische Gruppe.” See *Ibid.*, 38ff.
- 28 *Hannah Arendt-Heinrich Blücher, Briefe. 1936–1968*, ed. Lotte Köhler (Munich, 1996), 54–55 (my translation).
- 29 *Ibid.*, 58 (my translation).
- 30 *Eichmann in Jerusalem*, 231.
- 31 Hannah Arendt, *The Origins of Totalitarianism* (1951; New York, 1979), 443. Immanuel Kant, *Religion within the Limits of Reason Alone*, trans. Theodore M. Greene and Hoyt H. Hudson (New York, 1960), 32.
- 32 See Young-Bruehl, *Hannah Arendt*, 367ff.
- 33 *The Origins of Totalitarianism*, 443.
- 34 *Eichmann in Jerusalem*, 273.
- 35 See Arendt’s comment on Eichmann’s last words under the gallows: “‘After a short while, gentlemen, *we shall all meet again*. Such is the fate of all men. Long live Germany, long live Argentina, long live Austria. *I shall not forget them*.’...It was as though in those last minutes he was summing up the lesson that his long course in human wickedness had

- taught us – the lesson of the fearsome word-and-thought-defying *banality of evil*.” Ibid., 252 (original emphasis).
- 36 Ibid., 287–88 (original emphasis). Arendt dealt with what she saw as a widespread attitude of profound and almost neurotic detachment from reality on the part of postwar Germans in a number of essays such as “Besuch in Deutschland,” in *Hannah Arendt: Besuch in Deutschland* (Berlin, 1993).
- 37 *Hannah Arendt-Karl Jaspers Correspondence*, 542.
- 38 Hannah Arendt, *The Life of the Mind*, vol. 1, *Thinking* (New York, 1977), 5.
- 39 Hannah Arendt, “Thinking and Moral Considerations: A Lecture,” *Social Research* 38, no. 3 (Autumn 1971), reprinted in *ibid.*, 50th Anniversary issue (Spring/Summer 1984): 8.
- 40 *Between Friends*, 19. See my review of their correspondence in *The Nation*, 27 Mar. 1995, 423–25.
- 41 *Between Friends*, 22.
- 42 Ibid., 27.
- 43 Ibid., 296.
- 44 Benhabib, *The Reluctant Modernism of Hannah Arendt*, 185ff.; Bernstein, *Hannah Arendt and the Jewish Question*, 154–79.
- 45 See *Hannah Arendt-Karl Jaspers Correspondence*, 413ff.
- 46 *Eichmann in Jerusalem*, 263.
- 47 *Hannah Arendt-Karl Jaspers Correspondence*, 414.
- 48 *Eichmann in Jerusalem*, 254.
- 49 For a masterful analysis of the Nuremberg trials, see Judith N. Shklar, *Legalism: An Essay on Law, Morals and Politics* (Cambridge, MA, 1964).
- 50 Quoted in *Eichmann in Jerusalem*, 262.
- 51 Ibid., 263.
- 52 Ibid., 244–45.
- 53 Ibid., 269.
- 54 *The Origins of Totalitarianism*, 290ff.
- 55 See Frank Michelman, “Parsing ‘A Right to Have Rights’,” *Constellations: An International Journal of Critical and Democratic Theory* 3, no. 2 (Oct. 1996): 200–209.
- 56 Hannah Arendt, *The Human Condition*, 8th ed. (Chicago, 1973).
- 57 Ibid., 253.